



**Study Session Agenda  
City of Council Bluffs, Iowa  
July 10, 2017, 3:45 PM  
Council Chambers, 2nd Floor, City Hall  
209 Pearl Street**

**STUDY SESSION AGENDA**

- A. Review Agenda



**Council Agenda, City of Council Bluffs, Iowa  
Regular Meeting July 10, 2017, 7:00 PM  
Council Chambers, 2nd Floor, City Hall  
209 Pearl Street**

**AGENDA**

**1. PLEDGE OF ALLEGIANCE**

**2. CALL TO ORDER**

**3. CONSENT AGENDA**

- A. Approval of Agenda & Tape recordings of these proceedings to be incorporated into the official minutes.
- B. Reading, correction and approval of the June 26, 2017 City Council Meeting Minutes.
- C. Resolution 17-146  
Resolution setting a Public Hearing for 7:00 p.m. on July 24, 2017 for the 28<sup>th</sup> Street Storm Sewer. Project #PW18-20A.
- D. Resolution 17-147  
Resolution accepting the work of Driver Sewer and Water as complete and authorizing release of retainage for the Walnut Grove Subdivision Sanitary Sewer Replacement Project
- E. Resolution 17-148  
Resolution accepting the work of Valley Corporation as complete and authorizing release of the retainage after 30 days if no claims are filed in connection with the Levee Certification Project, Geotechnical MR\_7. Project # PW16-06B.
- F. Resolution 17-149  
Resolution accepting the work of Carley Construction LLC as complete and authorizing release of the retainage in 30 days if no claims are filed for the Mid-City Trail, Phase 2 Project
- G. Resolution 17-150  
Resolution accepting the work of Compass Utility LLC as complete and authorizing release of the retainage after 30 days if no claims are filed for South 1<sup>st</sup> St. Neighborhood Rehab, Phase VII. Project #PW17-12.
- H. Claim
- I. Mayor's Appointments
- J. Board of Water Works Trustees 2016 Annual Report (Separate Cover)

#### **4. PUBLIC HEARINGS**

**A. Resolution 17-151**

Resolution authorizing the Mayor and City Clerk to execute an underground pipeline easement in connection with a water line relocation by the Council Bluffs Water Works for the West Broadway, Segment 1 Reconstruction Project.

**B. Resolution 17-152**

Resolution approving the plans and specifications and authorizing the Iowa Department of Transportation to advertise for the Eastern Hills Drive and Cedar Lane Construction. Project # PW17-16A.

#### **5. ORDINANCES ON 3RD READING**

**A. Ordinance 6299**

An Ordinance to amend Title 12 "Council Bluffs Fire Code" by repealing the 2009 International Fire Code and enacting the 2015 International Fire Code.

#### **6. RESOLUTIONS**

**A. Resolution 17-144**

Resolution accepting settlement between the Iowa Insurance Division and Two Rivers Insurance Company. (Postponed from June 26, 2017)

**B. Resolution 17-153**

Resolution directing Sale of \$9,980,000 (Subject to Adjustment per Terms of Offering) General Obligation Bonds, Series 2017A

**C. Resolution 17-154**

Resolution assessing \$9,514.00 in unpaid weed abatement cost against property owners with the County Treasurer.

**D. Resolution 17-155**

Resolution assessing the unpaid solid waste nuisance cost against property owners with the County Treasurer.

**E. Resolution 17-156**

Resolution approving the use of 2018 Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) program funds and directing the Mayor to submit the 2018 Annual Plan to the City of Omaha and the U.S. Department of Housing and Urban Development (HUD)

## **7. APPLICATIONS FOR PERMITS AND CANCELLATIONS**

### **A. Liquor License Renewals**

- 1) Dollar General, 2731 East Kanesville Blvd
- 2) Pilot Travel Center, 2647 South 24th Street
- 3) Queen of Apostles Church, 3304 4th Avenue
- 4) Super Quik Stop, 2800 Twin City Drive

### **B. Cigarette Permits (7)**

## **8. CITIZENS REQUEST TO BE HEARD**

## **9. OTHER BUSINESS**

## **10. ADJOURNMENT**

### **DISCLAIMER:**

*If you plan on attending this meeting and require assistance please notify the City Clerk's office at (712) 328-4616, by 5:00 p.m., three days prior to the meeting.*





## **City Council Meeting Minutes June 26, 2017**

### **CALL TO ORDER**

A regular meeting of the Council Bluffs City Council was called to order by Matthew J. Walsh on Monday June 26, 2017 at 7:00 p.m.

Council Member present: Melissa Head, Al Ringgenberg, Roger Sandau, Nate Watson and Sharon White.

Staff Present Jodi Quakenbush and Richard Wade.

### **CONSENT AGENDA**

Approval of Agenda & Tape recordings of these proceedings to be incorporated into the official minutes.

Reading, correction and approval of the June 12, 2017 City Council Meeting Minutes.

Resolution 17-133, Resolution accepting the work of Judds Bros. Construction Co. as complete and authorizing release of the retainage after 30 days if no claims are filed in connection with the Levee Certification Project, Structural MR\_1. Project # PW17-06A.

Resolution 17-134, Resolution setting a public hearing for 7:00 p.m. on July 10, 2017 for the Eastern Hills Drive and Cedar Lane Construction. Project # PW17-16A.

Resolution 17-135, Resolution setting a public hearing for 7:00 p.m. on July 10, 2017, for granting a pipeline easement in connection with a water line relocation by the Council Bluffs Water Works for the West Broadway, Segment 1 Reconstruction Project.

Mayor's Appointments, Board of Library Trustees and Monthly Financial Reports, Notice of Claims (2), Notice of Right of Redemption (13)

Al Ringgenberg and Melissa Head moved and seconded approval of Consent Agenda with the changes in the June 12, 2017 minutes, as updated by City Clerk on June 23, 2017 and postponing Item 6G to July 10, 2017 at 7:00 p.m.. Unanimous, 5-0 vote.

## **PUBLIC HEARINGS**

### **Ordinance 6299**

An Ordinance to amend Title 12 "Council Bluffs Fire Code" by repealing the 2009 International Fire Code and enacting the 2015 International Fire Code.

Melissa Head and Nate Watson moved and seconded approval of Second consideration of Ordinance 6299. Third consideration to be held July 10, 2017 at 7:00 p.m.. Unanimous, 5-0 vote.

### **Resolution 17-136**

Resolution approving the plans and specifications and authorizing the City Clerk to advertise for bids for the West Broadway Fiber Relocation. Project # PW17-20A.

Al Ringgenberg and Roger Sandau moved and seconded approval of Resolution 17-136. Unanimous, 5-0 vote.

### **Resolution 17-137**

Resolution authorizing the Mayor and City Clerk to execute an underground pipeline easement in connection with a new natural gas line by Black Hills Energy.

Al Ringgenberg and Melissa Head moved and seconded approval of Resolution 17-137. Unanimous, 5-0 vote.

### **Resolution 17-138**

Resolution approving plans and specifications for services to provide Testing & Special Inspections and authorizing the City Clerk to advertise for bids for the Police Department Headquarters Testing & Special Inspections. Project# PD18-01.

Sharon White and Roger Sandau moved and seconded approval of Resolution 17-138. Unanimous, 5-0 vote.

## **ORDINANCES ON 2ND READING**

### **Ordinance 6297**

Ordinance to amend Chapter 1.32 - Purchasing.

Sharon White and Melissa Head moved and seconded approval of Second consideration of Ordinance 6297. Unanimous, 5-0 vote.

Sharon White and Melissa Head moved and seconded approval of Waive third consideration of ordinance 6297. Unanimous, 5-0 vote.

Ordinance 6297 passes to law.

## Ordinance 6298

Ordinance to amend Title 9 "Traffic" of the 2015 Municipal Code of Council Bluffs, Iowa, by Amending "Chapter 9.72.330 - License plates."

Roger Sandau and Melissa Head moved and seconded approval of Second consideration of Ordinance 6298. Unanimous, 5-0 vote.

Sharon White and Nate Watson moved and seconded approval of Waive third consideration of Ordinance 6298. Unanimous, 5-0 vote.

Ordinance 6298 passes to law.

## RESOLUTIONS

### Resolution 17 -125

Amended Resolution approving revisions to the Payment of Travel and Business Expenses Personnel Policy # 401 (Postponed from June 12, 2017)

Sharon White and Melissa Head moved and seconded approval of Resolution 17-125. Unanimous, 5-0 vote.

### Resolution 17-139

Resolution directing the advertisement for sale of, not to exceed, \$9,980,000 (dollar amount subject to change) General Obligation Bonds, Series 2017A, and approving electronic bidding procedures and Official Statement.

Sharon White and Nate Watson moved and seconded approval of Resolution 17-139. Unanimous, 5-0 vote.

Ringgenberg commented about combining the bonds to only issue one instead of two saves the taxpayers money and is wise to do.

### Resolution 17-140

Resolution accepting the bid of Compass Utility LLC in the amount of \$781,730.32 for the East Manawa Sewer Rehab, Phase VI. Project # PW18-09.

Roger Sandau and Al Ringgenberg moved and seconded approval of Resolution 17-140. Unanimous, 5-0 vote.

### Resolution 17-141

Resolution accepting the bid of Carley Construction LLC in the amount of \$805,957.75 for the South 1<sup>st</sup> Street Neighborhood Rehab, Phase VIII. Project #PW18-12.

Nate Watson and Al Ringgenberg moved and seconded approval of Resolution 17-141. Unanimous, 5-0 vote.

Resolution 17-142

Resolution to amend the approved planned commercial development plan for The Marketplace Subdivision relative to attached signage.

Sharon White and Melissa Head moved and seconded approval of Resolution 17-142. Unanimous, 5-0 vote.

Resolution 17-143

Resolution for preliminary plan approval for a 53-lot residential subdivision to be known as Hills of Cedar Creek East, legally described as being a part of the SE1/4 of Section 34-75-43. Extension of Abercorn Drive and Steven's Road

Roger Sandau and Melissa Head moved and seconded approval of Resolution 17-143. Voice Vote, 4-0 vote. (Abstain: White)

Resolution 17-144

Resolution accepting settlement between the Iowa Insurance Division and Two Rivers Insurance Company.

Resolution 17-144 continued to July 10, 2017 at 7:00 p.m.

Resolution 17-145

Resolution authorizing the Mayor to execute an Engagement Agreement relating to the General Obligation Bonds, Series 2017A

Sharon White and Melissa Head moved and seconded approval of Resolution 17-145. Unanimous, 5-0 vote.

**APPLICATIONS FOR PERMITS AND CANCELLATIONS**

Liquor License Renewals: 1. Eagles Club, 1530 Avenue F, 2. Hooters, 2910 23rd Avenue, 3. Hy-Vee Drug Store, 757 W Broadway, 4. Quaker Steak & Lube, 3320 Mid America Drive, 5. Red Lobster, 3040 Dial Drive  
Cigarette Permits (21)

Sharon White and Melissa Head moved and seconded approval of Application for Permits and Cancellations 7A, 1-5 & 7B. Unanimous, 5-0 vote.

**CITIZENS REQUEST TO BE HEARD**

Heard from Bruce Kelly, 864 McKenzie Avenue, requesting a bike trail from Simms to McKenzie Avenue.

**ADJOURNMENT** Major Adjourned the meeting at 7:14 p.m.

The tape recording of this proceeding, though not transcribed, is part of the record of each respective action of the City Council. The tape recording of this proceeding is incorporated into these official minutes of this Council meeting as if they were transcribed herein.

Matthew J. Walsh, Mayor

Attest: Jodi Quakenbush, City Clerk

## Council Communication

Department: Public Works Admin  
Case/Project No.: PW18-20A  
Submitted by: Matthew Cox, City  
Engineer

Resolution 17-146

Council Action: 7/10/2017

### Description

Resolution setting a Public Hearing for 7:00 p.m. on July 24, 2017 for the 28<sup>th</sup> Street Storm Sewer. Project #PW18-20A.

### Background/Discussion

- West Broadway is major arterial street and critical to the City's roadway network. It serves as a significant commercial corridor and commuter route and its reconstruction is an essential part of the economic redevelopment plan for the west end of Council Bluffs. There is also a strong community desire to enhance the aesthetics of the corridor and to create a connection between the Riverfront and downtown Council Bluffs.
- Segment 1 of the planned reconstruction is now underway and Segment 2 is in the design phase.
- As part of the corridor reconstruction, drainage along West Broadway will now be collected through a series of curb inlets. The 28<sup>th</sup> Street Storm Sewer project will construct a new storm sewer from West Broadway south to 1<sup>st</sup> Avenue and tie into the existing 1<sup>st</sup> Avenue trunk sewer. This sewer will provide a connection for discharging the collected storm water.
- Because Segment 2 is such a large project, completing all of the work in the 2018 construction season will be a challenge. The work associated with the 28<sup>th</sup> Street relief sewer was identified as a separate project that could be accomplished ahead of the West Broadway work.
- This project is partnered with the West Broadway Reconstruction. As a condition of the Transfer of Jurisdiction, Iowa DOT has provided \$20 million in funding for assuming ownership of the roadway previously identified as US-6. The FY18 CIP also included \$1,500,000 in Sales Tax Funds.
- The estimated construction cost for the project is \$500,000.
- The project schedule is as follows:

Hold Public Hearing	July 24, 2017
Letting	August 17, 2017
Award	August 28, 2017
Construction Start	Fall 2017

### Recommendation

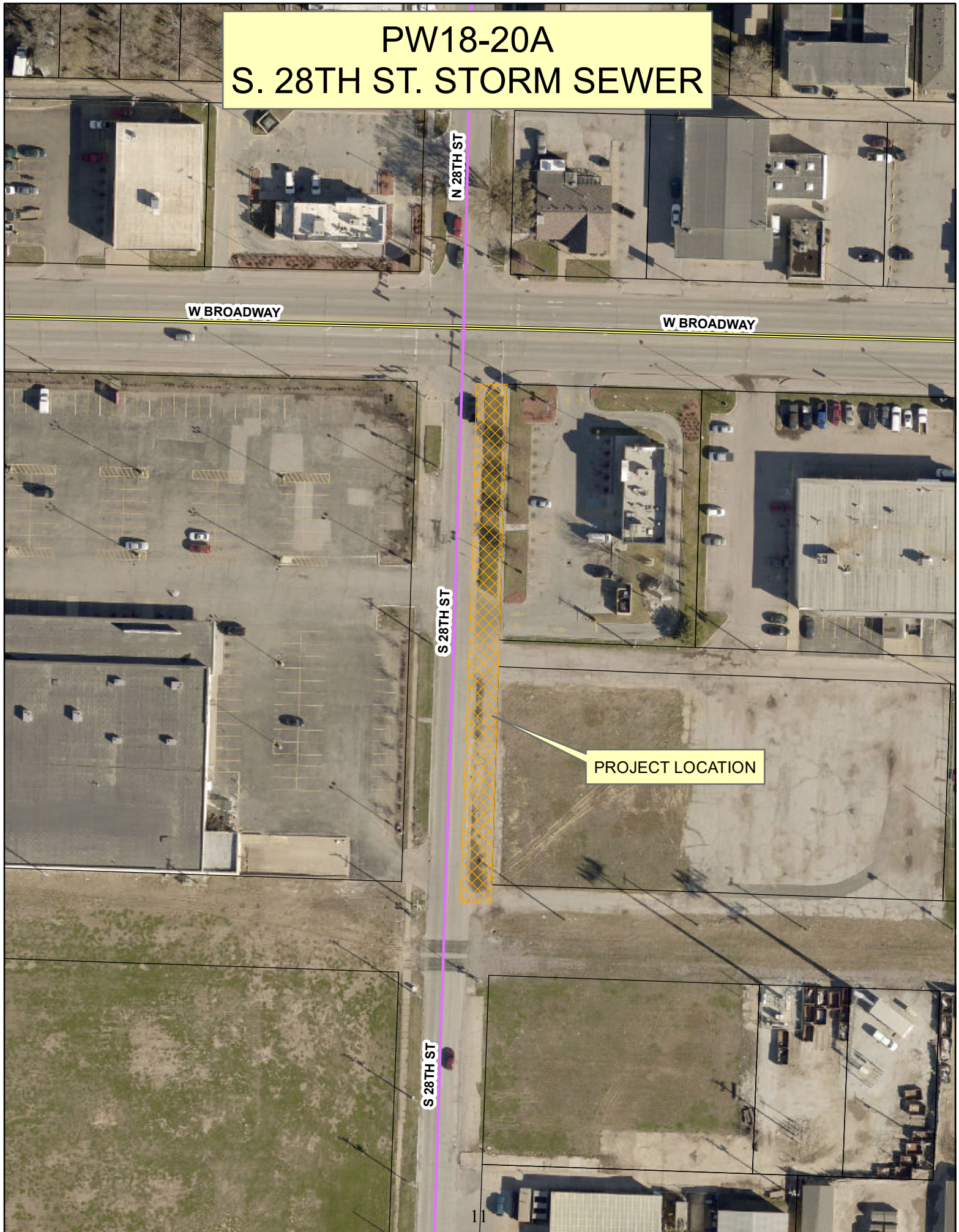
Approval of this resolution.

### ATTACHMENTS:

Description	Type	Upload Date
Map	Map	6/30/2017
Notice of Public Hearing	Other	6/30/2017
Resolution 17-146	Resolution	7/3/2017



PW18-20A  
S. 28TH ST. STORM SEWER



Notice of Public Hearing  
on the  
Plans, Specifications, Form of Contract and Cost Estimate  
for the  
28<sup>th</sup> Street Storm Sewer  
Project # PW18-20A

A public hearing will be held on July 24, 2017, at 7:00 p.m. in the council chambers of City Hall, 209 Pearl Street, Council Bluffs, Iowa, on the proposed plans, specifications, form of contract and cost estimate for the 28<sup>th</sup> Street Storm Sewer project. At said hearing, any interested person may appear and file objections to such plans and specifications.

By Order of the City Council  
of the  
City of Council Bluffs, Iowa  
Jodi Quakenbush, City Clerk



**RESOLUTION**  
**NO 17-146**

**RESOLUTION DIRECTING THE CLERK TO PUBLISH NOTICE  
AND SETTING A PUBLIC HEARING ON THE  
PLANS, SPECIFICATIONS, FORM OF CONTRACT  
AND COST ESTIMATE FOR THE  
28<sup>TH</sup> STREET STORM SEWER  
PROJECT #PW18-20A**

WHEREAS, the City wishes to make improvements known as the  
28<sup>th</sup> Street Storm Sewer, within the City,  
as therein described; and

WHEREAS, the plans, specifications, form of contract and cost  
estimate are on file in the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the City Clerk is hereby ordered to set a public hearing on the plans, specifications, form of  
contract and cost estimate for the 28<sup>th</sup> Street Storm Sewer setting July 24, 2017, at 7:00 p.m. as  
the date and time of said hearing.

AND BE IT FURTHER RESOLVED

That the aforementioned project is encompassed by the language of the 1989 Local Option Sales  
Tax Ballot and as such this is an appropriate expenditure of the Local Option Sales Tax  
Revenues.

ADOPTED  
AND  
APPROVED

July 10, 2017

\_\_\_\_\_  
Matthew J. Walsh, Mayor

ATTEST:

\_\_\_\_\_  
Jodi Quakenbush, City Clerk

## Council Communication

Department: Community

Development

Case/Project No.:

Submitted by: Courtney Harter

Resolution 17-147

Council Action: 7/10/2017

### Description

Resolution accepting the work of Driver Sewer and Water as complete and authorizing release of retainage for the Walnut Grove Subdivision Sanitary Sewer Replacement Project

### Background/Discussion

In March, the City completed its demolition project of the Walnut Grove Elementary as part of its collaboration agreement with NeighborWorks Home Solutions (NWHS) and Iowa Western Community College (IWCC) to construct seven single-family homes on the southern half of the property as part of the Construction Technology Program.

During the planning stages, the sanitary sewer line running through the alleyway of the property was determined to be inadequate. The line is original and in order to accommodate the residential development, it must be replaced. The City has allocated Community Development Block Grant (CDBG) funds from its 2017 budget to complete the sewer replacement project. The 2017 CDBG/HOME Investment Partnership Program (HOME) budget was recommended for approval by the Community Development Advisory Committee (CDAC) on October 10, 2016 with City Council approval on October 24, 2017. Total funds allocated for the project are \$100,000.

On April 10, 2017, the City Council awarded Driver Sewer and Water the contract to complete the project for \$74,014.00.

The final project financials can be summarized as follows:

Original contract amount	74,014.00
Change Order #1	466.00
Final contract amount	\$74,480.00
Liquidated damages deduction	-
Retainage Due to Contractor	\$3,724.00

### Recommendation

The Community Development Department recommends acceptance of the work by Driver Sewer and Water in connection with the Walnut Grove Elementary Subdivision Sanitary Sewer Project and also authorization for the Finance Department to issue a final check in the amount of \$3,724.00 for final retainage after 30 days if no claims are filed and all other contract requirements have been met.

### ATTACHMENTS:

Description	Type	Upload Date
Engineer Acceptance of Work	Resolution	6/16/2017
Resolution 17-147	Resolution	7/3/2017

**STATEMENT OF FINAL ACCEPTANCE**

June 16, 2017

Ms. Courtney Harter  
Council Bluffs Community Development  
209 Pearl Street  
Council Bluffs, IA 51503

I hereby state that the work of constructing certain sanitary sewer, sidewalk and street improvements within Council Bluffs, Iowa, according to the plans and specifications entitled "Walnut Grove Subdivision – Sanitary Sewer Replacement" under contract by and between the City of Council Bluffs (Owner) and Driver Sewer & Water, Inc. (Contractor) has been completed, including all punchlist items as of June 9, 2017, and that the work as completed is in compliance with the plans and specifications for said work. Final acceptance of the project is recommended to and by the City of Council Bluffs, Iowa.

Respectfully Submitted,

**SNYDER & ASSOCIATES, INC.**



Brian J. Fortin, P.E.  
Project Engineer

N:\2015\_projects\115.0751\Construction\2017-06-16 Walnut Grove Statement of Final Acceptance.docx

**RESOLUTION NO. 17-147**

**A RESOLUTION ACCEPTING THE WORK OF DRIVER SEWER AND WATER IN CONNECTION WITH THE WALNUT GROVE SUBDIVISION SANITARY SEWER REPLACEMENT PROJECT AND AUTHORIZING THE FINANCE DEPARTMENT TO ISSUE A CITY CHECK IN THE AMOUNT OF \$3,724.00.**

**WHEREAS,** the City of Council Bluffs, Iowa, entered into an agreement with Driver Sewer and Water for the replacement of the sanitary sewer in the Walnut Grove Subdivision located at 2920 Avenue J; and

**WHEREAS,** the contractor has completed the construction of said improvements in accordance with the terms and conditions of their contract, plans and specifications filed with the City Clerk, along with all approved change orders; and

**WHEREAS,** a request for final payment in the amount of \$3,724.00 from Driver Sewer and Water has been submitted to the City Council for approval and payment; and

**WHEREAS,** final payment is due 30 days after acceptance of the work, assuming all other contract obligations have been met; and

**WHEREAS,** the City Council of the City of Council Bluffs has been advised and does believe that said \$3,724.00 constitutes a valid obligation of the City and should in its best interest be paid.

**NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA**

That said report of the engineer is hereby approved and adopted and the improvements are hereby accepted as having been completed in accordance with said plans and specifications.

**BE IT FURTHER RESOLVED**

That the Finance Department is hereby authorized and directed to issue a City check in the amount of \$3,724.00 payable to Driver Sewer and Water after 30 days in no claims are filed and all other contract requirements have been met from budget code cost center H55900-649948.

ADOPTED  
AND  
APPROVED

July 10, 2017

\_\_\_\_\_  
Matthew J. Walsh Mayor

ATTEST:

\_\_\_\_\_  
Jodi Quakenbush City Clerk

## Council Communication

Department: Public Works Admin  
Case/Project No.: PW16-06B  
Submitted by: Matthew Cox, City  
Engineer

Resolution 17-148

Council Action: 7/10/2017

### Description

Resolution accepting the work of Valley Corporation as complete and authorizing release of the retainage after 30 days if no claims are filed in connection with the Levee Certification Project, Geotechnical MR\_7. Project # PW16-06B.

### Background/Discussion

- The City of Council Bluffs owns or sponsors multiple levee segments which encompass the City Federal Levee System, providing flood protection from the Missouri River, Mosquito Creek, and Indian Creek. These levee systems are currently shown on FEMA floodplain maps as being accredited and are identified as providing protection from the 100-year flood or 1% annual chance flood event.
- In order to maintain the level of protection identified on the FEMA Flood Insurance Rate Map, it is necessary to provide documentation to FEMA that complies with the requirements of 44 CFR 65.10. If the levees are not certified, they will be de-accredited and FEMA will begin the process of updating maps. Areas previously protected by the levees will be identified as flood-prone.
- In order to meet the criteria for levee certification, improvements to each of the levee systems will be necessary.
- The purpose of the Geotechnical MR\_7 project was to resolve seepage deficiencies along the Missouri River levee. The project replaced the existing relief wells with new relief wells and provided a seepage berm along the dry side of the levee.
- The FY16 CIP included \$1,695,000 funded by the Iowa Flood Mitigation Program and \$3,305,000 in Sales Tax Funds programmed for levee improvements. The budget for this project was \$600,000.

	Division I	Division VIII	
	<u>General</u>	<u>Miscellaneous</u>	<u>Total</u>
Original contract amount	\$64,154.90	\$262,403.20	\$326,558.10
Change Orders (-5.66%)	(\$7,299.97)	(\$11,174.68)	(\$18,474.65)
Final contract amount	\$56,854.93	\$251,228.52	\$308,083.45
Less previous payments	\$54,012.18	\$238,667.09	\$292,679.27
Retainage due contractor	\$ 2,842.75	\$ 12,561.43	\$ 15,404.18

- Contractor did not complete the project on time and received 1 non-compliance notice. Liquidated damages in the amount of \$4,500 were assessed.

### Recommendation

Approval of this resolution.

### ATTACHMENTS:

Description	Type	Upload Date
Resolution 17-148	Resolution	7/3/2017



**RESOLUTION  
NO 17-148**

**RESOLUTION ACCEPTING THE WORK OF  
VALLEY CORPORATION IN CONNECTION WITH  
THE LEVEE CERTIFICATION PROJECT, GEOTECHNICAL MR\_7  
AND AUTHORIZING THE FINANCE DIRECTOR TO ISSUE  
A CITY CHECK IN THE AMOUNT OF \$15,404.18  
PROJECT #PW16-06B**

- WHEREAS, the City of Council Bluffs, Iowa, entered into an agreement with Valley Corporation, Valley, NE, for Levee Certification Project, Geotechnical MR\_7; and
- WHEREAS, said contractor has fully completed the construction of said improvements in accordance with the terms and conditions of said contract and plans and specifications filed with the city clerk; and
- WHEREAS, a request for final payment in the amount of \$15,404.18 to Valley Corporation, has been submitted to the city council for approval and payment; and
- WHEREAS, final payment is due 30 days after acceptance of the work; and
- WHEREAS, the city council of the City of Council Bluffs has been advised and does believe that said \$15,404.18 constitutes a valid obligation of the City and should in its best interest be paid.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

Said improvements are hereby accepted as having been fully completed in accordance with plans and specifications.

AND BE IT FURTHER RESOLVED

That the finance director is hereby authorized and directed to issue a city check in the amount of \$15,404.18 payable to Valley Corporation from budget codes Division I, E16100-676000; Division VIII, E16100-676900; Project #1606B.

AND BE IT FURTHER RESOLVED

That the aforementioned project is encompassed by the language of the 1989 Local Option Sales Tax Ballot and as such this is an appropriate expenditure of the Local Option Sales Tax Revenues.

ADOPTED  
AND  
APPROVED

July 10, 2017

\_\_\_\_\_  
Matthew J. Walsh, Mayor

ATTEST:

\_\_\_\_\_  
Jodi Quakenbush, City Clerk

## Council Communication

Department: Parks and Recreation

Case/Project No.:

Resolution 17-149

Council Action: 7/10/2017

Submitted by: Larry Foster

### Description

Resolution accepting the work of Carley Construction LLC as complete and authorizing release of the retainage in 30 days if no claims are filed for the Mid-City Trail, Phase 2 Project

### Background/Discussion

The Mid-City Trail, Phase 2, connects the Bob Kerrey Pedestrian Bridge, Tom Hanafan River's Edge Park and the Missouri River with Historic Downtown Council Bluffs and other sections of the City trail system. It provides the much needed safe pedestrian/bike connection between residents and the Riverfront.

This project has long been envisioned and has been identified both in the City of Council Bluffs Trail Plan and *The Paths of Discovery*/Metro Area Trail Plan. It is also included in other transportation plans, including MAPA's. Funding for this project was previously authorized: TAP Grant through MAPA, \$714,000; CIP, PR-12-01, Mid City Trail, \$23,000; CIP, PR-13-01, Mid City Trail, \$130,000; CIP, PR-14-01, Mid City Trail, \$150,000; CIP, PR-15-01, Mid City Trail, \$150,000; CIP, PR-16-01, Mid City Trail, \$50,000. The engineer's cost estimate for this project is \$952,063.00.

Original Contract Amount	\$963,928.10
Change Orders	\$15,763.69
Final Contract Amount	\$979,691.79
Less Previous Payments	\$950,301.04
Retainage Due Contractor	\$29,390.75

### Recommendation

I recommend that the City Council adopt the resolution declaring the Mid-City Trail, Phase 2 Project as complete and authorize the Finance Director to issue the final payment and retainage in the amount of \$29,390.75 in 30 days if no claims are filed.

### ATTACHMENTS:

Description	Type	Upload Date
Acceptance Letter	Letter	6/30/2017
Resolution 17-149	Resolution	7/3/2017





## STATEMENT OF FINAL ACCEPTANCE

TO: Larry Foster, Parks Director  
City of Council Bluffs, Iowa  
209 Pearl Street  
Council Bluffs, Iowa 51503

DATE: June 19, 2017

RE: ***Mid-City Trail Phase 2***  
***TAP-T-1642(667)—8V-78***

I hereby state that the work of constructing certain multi-use trail within Council Bluffs, Iowa according to the plans and specifications entitled "***Urban Trail System, Mid-City Trail – Phase 2, P.C.C. Trail***" under contract by and between the City of Council Bluffs, Iowa and Carley Construction LLC has been completed, including all punch list items as of May 24, 2017, and that the work as completed is in compliance with the plans and specifications for said work. Final acceptance of the project is recommended to and by the City of Council Bluffs, Iowa.

HGM Associates Inc.

A handwritten signature in blue ink, appearing to read "John E. Jorgensen".

John E. Jorgensen, P.E.  
Project Engineer

RESOLUTION NO. 17-149

RESOLUTION ACCEPTING THE COMPLETION OF THE MID-CITY TRAIL,  
PHASE 2 PROJECT AS COMPLETE AND AUTHORIZING THE FINANCE  
DIRECTOR TO RELEASE THE FINAL PAYMENT OF \$29,390.75 IN 30 DAYS IF  
NO CLAIMS ARE FILED.

WHEREAS, the City of Council Bluffs, Iowa entered into a contract with Carley  
Construction LLC for the Mid-City Trail, Phase 2 Project; and

WHEREAS, said contractor has fully completed the construction of said improvements in  
accordance with the terms and conditions of said contract and plans and  
specifications filed with the City Clerk; and

WHEREAS, a request for final payment in the amount of \$29,390.75 to Carley Construction  
LLC has been submitted to the City Council for approval and payment; and

WHEREAS, Final payment is due within 30 days after acceptance of the work; and

WHEREAS, the City Council of the City of Council Bluffs has been advised and does believe  
that said \$29,390.75 constitutes a valid obligation of the City and should in its  
best interest be paid.

NOW, THEREFORE BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

Said improvements are hereby accepted as having been fully completed in accordance with plans  
and specifications.

AND BE IT FURTHER RESOLVED

That the Finance Director is hereby authorized and directed to issue a City check in the amount  
of \$29,390.75 to Carley Construction LLC in 30 days if no claims are filed.

ADOPTED  
AND  
APPROVED July 10, 2017

\_\_\_\_\_  
Matt J. Walsh Mayor

Attest:

\_\_\_\_\_  
Jodi Quakenbush City Clerk

## Council Communication

Department: Public Works Admin  
Case/Project No.: PW17-12  
Submitted by: Matthew Cox, City  
Engineer

Resolution 17-150

Council Action: 7/10/2017

### Description

Resolution accepting the work of Compass Utility LLC as complete and authorizing release of the retainage after 30 days if no claims are filed for South 1<sup>st</sup> St. Neighborhood Rehab, Phase VII. Project #PW17-12.

### Background/Discussion

The South 1<sup>st</sup> Street neighborhood bounded by Pierce Street on the north, Palmer Avenue on the south, 1<sup>st</sup> Street on the west and Franklin Avenue on the east consists of some of the original town subdivision within the city.

Records indicate that the infrastructure in this area dates back prior to the 1950's and is in need of replacement. Storm sewers are lacking or undersized, sanitary sewers are leaking and broken and the pavements are in poor condition. Improvement projects will be phased over several years to replace and upgrade the aged infrastructure.

Phases I thru VI are complete and included portions of Knepper Street, Damon Street, Hill Street, Stutsman Street, Langstrom Street, Franklin Avenue, Platner Street, Carson Avenue, Grace Street, Kappell Avenue, Charles Street, Garden Street, Bloomer Street, Clinton Street, Voorhis Street, and Stahl Avenue.

Phase VII included approximately 1,350 feet of Grace Street from Carson Avenue to the south.

The project was included in the FY17 CIP with a budget of \$1,000,000 in Sales Tax Funds.

<u>Total</u>	<u>Division I General</u>	<u>Division II Pavement</u>	<u>Division III Storm Sewer</u>	<u>Division IV San. Sewer</u>	<u>Division V Water Main</u>
Original contract amount \$1,141,766.10	\$69,202.32	\$555,691.96	\$113,187.37	\$192,085.02	\$211,599.43
Change Orders (-4.45%) (\$50,811.57)	\$14,324.29	(\$27,843.36)	(\$653.30)	(\$19,343.98)	(\$17,295.22)
Final contract amount \$1,090,954.53	\$83,526.61	\$527,848.60	\$112,534.07	\$172,741.04	\$194,304.21
Less previous payments \$1,036,406.80	\$79,350.28	\$501,456.17	\$106,907.37	\$164,103.98	\$184,589.00
Retainage due contractor \$54,547.73	\$4,176.33	\$26,392.43	\$5,626.70	\$8,637.06	\$9,715.21

The Contractor completed the project on time and did not receive any non-compliance notices.

**Recommendation**

Approval of this resolution.

**ATTACHMENTS:**

Description	Type	Upload Date
Resolution 17-150	Resolution	7/3/2017

**RESOLUTION  
NO 17-150**

**RESOLUTION ACCEPTING THE WORK OF  
COMPASS UTILITY LLC IN CONNECTION WITH  
THE SOUTH 1<sup>ST</sup> STREET NEIGHBORHOOD REHAB, PHASE VII  
AND AUTHORIZING THE FINANCE DIRECTOR TO ISSUE  
A CITY CHECK IN THE AMOUNT OF \$54,547.73  
PROJECT #PW17-12**

- WHEREAS, the City of Council Bluffs, Iowa, entered into an agreement with Compass Utility LLC, Council Bluffs, IA for the South 1<sup>st</sup> Street Neighborhood Rehab Phase VII; and
- WHEREAS, said contractor has fully completed the construction of said improvements in accordance with the terms and conditions of said contract and plans and specifications filed with the City Clerk; and
- WHEREAS, a request for final payment in the amount of \$54,547.73 to Compass Utility LLC, has been submitted to the city council for approval and payment; and
- WHEREAS, final payment is due 30 days after acceptance of the work; and
- WHEREAS, the city council of the City of Council Bluffs has been advised and does believe that said \$54,547.73 constitutes a valid obligation of the City and should in its best interest be paid.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

Said improvements are hereby accepted as having been fully completed in accordance with plans and specifications.

AND BE IT FURTHER RESOLVED

That the finance director is hereby authorized and directed to issue a city check in the amount of \$54,547.73 payable to Compass Utility LLC from budget codes Division I, G21600-676000; Division II, G21600-676200; Division III, G21600-676500; Division IV, G21600-676700; Division V, G21600-678000; Project #00555.

AND BE IT FURTHER RESOLVED

That the aforementioned project is encompassed by the language of the 1989 Local Option Sales Tax Ballot and as such this is an appropriate expenditure of the Local Option Sales Tax Revenues

ADOPTED  
AND  
APPROVED

July 10, 2017

\_\_\_\_\_  
Matthew J. Walsh, Mayor

ATTEST:

\_\_\_\_\_  
Jodi Quakenbush, City Clerk

RETURN TO: CITY OF COUNCIL BLUFFS, IOWA  
ATTN: CITY LEGAL DEPARTMENT  
OR CITY CLERK  
209 PEARL STREET  
COUNCIL BLUFFS, IA 51503

CITY CLAIM NO. \_\_\_\_\_

## NOTICE OF CLAIM/LOSS

NAME OF CLAIMANT: Martin Ahmann DAY PHONE: 402-630-7267  
ADDRESS: 49 Norwood Dr. Council Bluffs IA CB. DOB: 7/19/1971  
DATE & TIME OF LOSS/ACCIDENT: March 23, 2017 7:30am  
LOCATION OF LOSS/ACCIDENT: 49 Norwood. Council Bluffs IA 51503  
DESCRIPTION OF LOSS/ACCIDENT: A Cottonwood tree from city property fell onto our house causing damage to our siding, gutter and breaking a window. The window has been replaced ~~by~~<sup>as seen</sup> by the invoice enclosed. Police were notified & city crews came to survey. Tree removal (USE BACK OF FORM, IF NECESSARY) →  
TOTAL DAMAGES CLAIMED: \$ 4528.89  
WITNESS(ES) (Name(s), Address(es), Phone No(s)): Daniel Dosen 10 Norwood Ct. Council Bluffs IA

WAS POLICE REPORT FILED ☒ YES ☐ NO

IF MEDICAL ATTENTION WAS REQUIRED, PLEASE PROVIDE NAME, ADDRESS, AND TELEPHONE NO. OF TREATING PHYSICIAN AND FACILITY:

HAVE YOU RESUMED NORMAL ACTIVITIES? ☐ YES ☐ NO

IF YOU INCURRED PROPERTY DAMAGE, PLEASE DESCRIBE AND PROVIDE COPIES OF ESTIMATES, INVOICES, PHOTOGRAPHS, AND ANY

OTHER RELEVANT INFORMATION: See enclosed Window damage, siding damage, gutter damage.

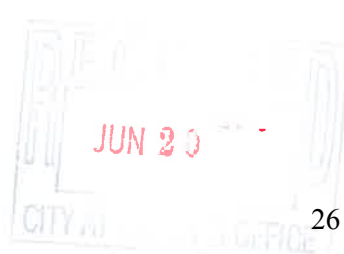
LIST INSURANCE PROVIDER AND COVERAGE: Farm Bureau, Western Ag Insurance Co. #8053494  
Full coverage on home.

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IN SUPPORT OF MY CLAIM IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

NOTE: IT IS A FRAUDULENT PRACTICE PUNISHABLE BY FINE OR IMPRISONMENT TO KNOWINGLY MAKE A FALSE CLAIM (SECTION 714.8(3) CODE OF IOWA)

6-18-2017  
DATE

[Signature]  
CLAIMANT'S SIGNATURE



CLERK RCV'D  
20 JUN 17  
PM 12:21

## Council Communication

Department: City Clerk  
Case/Project No.:  
Submitted by: Matthew Walsh

Mayor's Appointments

Council Action: 7/10/2017

### Description

#### Background/Discussion

With City Council concurrence, I would like to make the following appointments:

#### **BOARD OF LIBRARY TRUSTEES**

Reappoint the following with term expiring 07/01/2023:

- Matthew Garst  
268 Elmwood Dr

#### **DODGE TRUST BOARD**

Appoint the following with term expiring 07/01/2023:

- Kelly Jones  
646 Forest Dr

Reappoint the following with terms expiring 07/01/2023:

- Bobbette Behrens  
139 Woodbury Cr

### Recommendation

## Council Communication

Department: Public Works Admin  
Case/Project No.:  
Submitted by: Matthew Cox, City  
Engineer

Resolution 17-151

Council Action: 7/10/2017

### Description

Resolution authorizing the Mayor and City Clerk to execute an underground pipeline easement in connection with a water line relocation by the Council Bluffs Water Works for the West Broadway, Segment 1 Reconstruction Project.

### Background/Discussion

- The easement is required for construction of the new water main due to conflicts with existing utilities in public right-of-way.
- The permanent easement is located in Lot 1 of the Ferry Addition adjacent to vacated S. 36<sup>th</sup> Street south of West Broadway. The address is 3549 West Broadway. The easement has a length and width of 10 feet in the City owned parcel.
- The permanent nonexclusive underground pipeline easement allows Council Bluffs Water Works to construct, inspect, maintain, repair, replace, and operate or remove underground pipe lines and/or mains for the purpose of conveying water over, across, through, and under said pipe lines and/or mains.

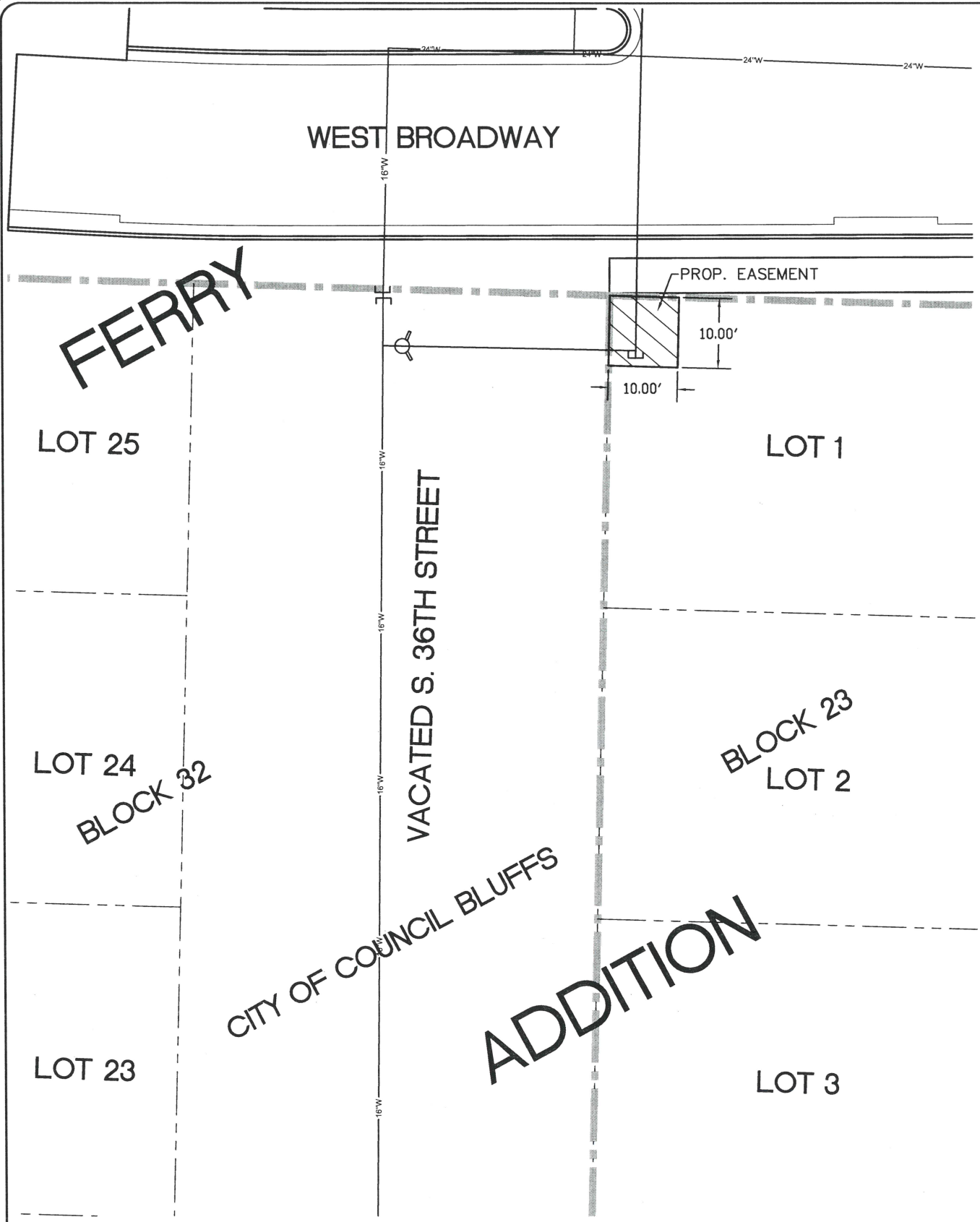
### Recommendation

Approval of this resolution.

### ATTACHMENTS:

Description	Type	Upload Date
Exhibit A	Map	6/29/2017
Easement Agreement	Agreement	6/29/2017
Resolution 17-151	Resolution	7/3/2017






LEGAL DESCRIPTION

A PARCEL OF LAND BEING THE NORTH 10.00 FEET OF THE WEST 10.00 FEET IN LOT 1, BLOCK 23, FERRY ADDITION, A SUBDIVISION IN THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

SAID PARCEL CONTAINS 100 S.F., MORE LESS.

EXHIBIT A



I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

*Melvin G. Samples* JUNE 14, 2017  
MELVIN G. SAMPLES DATE  
LICENSE NUMBER 10569  
MY LICENSE RENEWAL DATE IS DECEMBER 31, 2018  
PAGES OR SHEETS COVERED BY THIS SEAL:  
SHEET 1 OF 1

This drawing is being made available by hgm associates inc. for use on this project in accordance with the hgm associates inc. agreement for professional services. It is not to be used for any other purpose without the written consent of hgm associates inc. No liability for any use of this drawing or any part thereof except in accordance with the terms of the above agreement.

**hgm**  
ASSOCIATES INC.  
640 FIFTH AVENUE COUNCIL BLUFFS, IA  
PHONE: 712-323-0530

ZEH	drawn	_____	date
ZEH	designed	_____	date
MEL	approved	_____	date
JUNE-17	revision	_____	date

project WEST BROADWAY RECONSTRUCTION SEGMENT I  
WATER MAINIMPROVEMENTS

client THE COUNCIL BLUFFS WATER WORKS  
COUNCIL BLUFFS, IOWA

sheet EASEMENT EXHIBIT

project no. 160216

sheet 1 OF 1

# EASEMENT AGREEMENT

## Recorder's Cover Sheet

### **Preparer Information:** (Name, address and phone number)

Council Bluffs Water Works, P. O. Box 309, Council Bluffs, IA 51502, Phone 712.328.1006  
Douglas P. Drummey, General Manager. Reviewed and approved by legal counsel for the Board of Water Works Trustees of the City of Council Bluffs, Iowa.

### **Taxpayer Information:** (Name and complete address)

Council Bluffs Water Works, P. O. Box 309, Council Bluffs, IA 51502, Phone 712.328.1006  
Douglas P. Drummey, General Manager.

### **Return Document To:** (Name and complete address)

Council Bluffs Water Works, P. O. Box 309, Council Bluffs, IA 51502, Phone 712.328.1006  
Douglas P. Drummey, General Manager.

### **Grantors:**

City of Council Bluffs

### **Grantees:**

City of Council Bluffs, Iowa, for the use and benefit of The Board of Water Works Trustees of the City of Council Bluffs, Iowa

**Legal Description:** See next page.

**Document or instrument number of previously recorded documents if applicable:**

## EASEMENT AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT the City of Council Bluffs, Iowa, for good and sufficient valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey unto the City Of Council Bluffs, Iowa, for the use and benefit of The Board of Water Works Trustees of the City of Council Bluffs, Iowa, (the "City Water Works") a permanent non-exclusive easement at least ten (10) feet in width, over, across and through the following described real estate situated in the City of Council Bluffs, Pottawattamie County, Iowa, to-wit:

See Exhibit "A"

including the perpetual right to enter upon said real estate, at any time that it may see fit, and construct, inspect, maintain, repair, replace and operate or remove underground pipe lines and/or mains for the purpose of conveying water over, across, through and under said real estate, together with the right to excavate and refill ditches and/or trenches for the location of said pipe lines and/or mains, and the further right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction and maintenance of said pipe lines and/or mains.

The Easement herein granted shall be a servient estate which shall run with the land and be binding on the successors-in-interest to said tracts of land.

The said City Water Works shall properly and promptly refill any excavations made on said premises after the purpose of said excavation has been fulfilled and shall leave the premises in the same general condition as it was in before the said City Water Works went upon the same; further, that if any fences or existing structures are moved for the purpose of laying, maintaining, operating or replacing said main, such fences and structures shall be promptly replaced by said City Water Works upon completion of the work requiring such removal.

In further consideration for the good and sufficient valuable consideration received by the undersigned, the undersigned agrees that it will not place any permanent structures upon or over said easement without first obtaining the written consent of said City Water Works; further, the undersigned covenants with Grantee that it is lawfully seized and possessed of the real estate above described; that it has good and lawful right to convey it, or any part thereof, that it is free from



**RESOLUTION**  
**NO 17-151**

**RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK  
TO EXECUTE AN UNDERGROUND PIPELINE EASEMENT  
IN CONNECTION WITH A WATER LINE RELOCATION  
BY THE COUNCIL BLUFFS WATER WORKS FOR THE  
WEST BROADWAY, SEGMENT 1 RECONSTRUCTION PROJECT**

- WHEREAS,           The Council Bluffs Water Works wishes to acquire an easement to install underground water line within the city, as therein described; and
- WHEREAS,           The Council Bluffs Water Works has submitted an underground easement for said improvements; and
- WHEREAS,           A Notice of Public Hearing was published as required by law, and a public hearing was held on July 10, 2017; and
- WHEREAS,           the city council deems approval of said acquisition agreements to be in the best interest of the City of Council Bluffs.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor and City Clerk are hereby authorized and directed to execute an underground pipeline easement in connection with a new water line by the Council Bluffs Water Works.

ADOPTED  
AND  
APPROVED

July 10, 2017

\_\_\_\_\_  
Matthew J. Walsh, Mayor

ATTEST:

\_\_\_\_\_  
Jodi Quakenbush, City Clerk

## Council Communication

Department: Public Works Admin  
Case/Project No.: PW17-16A  
Submitted by: Matthew Cox, City  
Engineer

Resolution 17-152

Council Action: 7/10/2017

### Description

Resolution approving the plans and specifications and authorizing the Iowa Department of Transportation to advertise for the Eastern Hills Drive and Cedar Lane Construction. Project # PW17-16A.

### Background/Discussion

- In January of 2016, a Record of Decision was signed for the Eastern Hills Drive project. This completed a 7 year process for the documentation required to comply with the National Environmental Policy Act (NEPA).
- The project will improve the transportation network in eastern Council Bluffs by completing Eastern Hills Drive between US Highway 6 and Iowa Highway 92, while providing improved connections to developments along Greenview Road, Steven Road, and Cottonwood Road. The continuity for the local transportation system will support future land development, increases the capacity of existing roads to accommodate traffic demands and improves emergency access.
- The first segment proposed for construction is the extension of Eastern Hills Drive from Cedarbrook Drive to just north of Cedar Lane and the reconstruction of Cedar Lane from 700 feet west of Eastern Hills Drive to Eastern Hills Drive. Sidewalk connections and a 10-ft wide trail will be added on the south side of the existing Eastern Hills Drive. A 10-ft wide trail will also be constructed on the south side of Cedar Lane.
- The project received Federal funding from a \$3.5M appropriation and \$10.2M in earmarks. The funding agreement authorizes Iowa DOT to administer the project and is necessary to utilize the Federal funds, which support 80% of the improvement costs. The remaining 20% will be shared by the City of Council Bluffs and Pottawattamie County. The City's match will be paid using sales tax funds.
- The estimated construction cost for the extension of Eastern Hills Drive and the reconstruction of a portion of Cedar Lane is \$2,211,000. The cost of right-of-way acquisitions related to this phase totaled \$22,695.
- The project schedule is as follows:

Hold Public Hearing	July 10, 2017
Bid Letting	July 18, 2017
Award	August 14, 2017

### Recommendation

Approval of this resolution.

### ATTACHMENTS:

Description	Type	Upload Date
-------------	------	-------------

Map  
Resolution 17-152

Map  
Resolution 6/29/2017  
7/3/2017



# PW17-16A EASTERN HILLS DRIVE & CEDAR LANE CONSTRUCTION





**RESOLUTION  
NO 17-152**

**RESOLUTION APPROVING THE  
PLANS, SPECIFICATIONS, FORM OF CONTRACT  
AND COST ESTIMATE FOR THE  
EASTERN HILLS DRIVE AND CEDAR LANE CONSTRUCTION  
PROJECT #PW17-16A**

WHEREAS, the plans, specifications, form of contract and cost estimate are on file in the office of the City Clerk of the City of Council Bluffs, Iowa for the Eastern Hills Drive and Cedar Lane Construction within the City; and

WHEREAS, A Notice of Public Hearing was published as required by law, and a public hearing was held on July 10, 2017.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the plans, specifications, form of contract and cost estimate are hereby approved for the Eastern Hills Drive and Cedar Lane Reconstruction within the City and the Iowa Department of Transportation is hereby authorized to advertise for bids for said project.

AND BE IT FURTHER RESOLVED

That the aforementioned project is encompassed by the language of the 1989 Local Option Sales Tax Ballot and as such this is an appropriate expenditure of the Local Option Sales Tax Revenues.

ADOPTED  
AND  
APPROVED

July 10, 2017

\_\_\_\_\_  
Matthew J. Walsh, Mayor

ATTEST:

\_\_\_\_\_  
Jodi Quakenbush, City Clerk

## Council Communication

Department: City Clerk  
Case/Project No.:  
Submitted by: Justin James

Ordinance 6299

Council Action: 7/10/2017

### Description

An Ordinance to amend Title 12 "Council Bluffs Fire Code" by repealing the 2009 International Fire Code and enacting the 2015 International Fire Code.

### Background/Discussion

See Attachment for summary of the changes.

### Recommendation

Approval of Ordinance

### ATTACHMENTS:

Description	Type	Upload Date
Attachment A	Other	6/6/2017
Ordinance 6299	Ordinance	7/3/2017

**Section 105 Permits** *Section 105.6, Required operational permits amended by removing the required permit items, 105.6.1 – 105.6.48, and replacing them with the current permit items under Municipal Code 12.03.010 "Designated Activities requiring permits and fees. (see attached)*

**Section 108 Board of Appeals** *Section 108.1 is removed and the current Municipal Code 13.01.110 as adopted by the Building Division enacted. (see attached)*

**Section 109.4 Violation Penalties** *Local Language used to cover the fees associated with any violations that may occur. (see attached)*

**Section 111.4 Failure to comply** *Local language to include the dollar amount of fines issued when stop work orders have been issued*

**Section 307.4.3** *Amended to include portable outdoor fireplace regulations at one and two family dwellings. We currently regulate these situations through both Fire and Health dept. rules. The code exempts this situation due to the difficulty in enforcement.*

**Section 308.1.6.3 Sky lanterns** *Amended to not allow under any circumstance.*

**Section 507.5.1 Fire Hydrants where required** *amended to follow the current code of 300 feet. This amendment is identical to the one enacted with the adoption of the 2009 IFC codes.*

**Section 907.1.4 Exterior Strobe** *additional requirement to add an external strobe at the door nearest the Fire Alarm panel and or annunciator. This amendment is identical to the 2009 IFC changes*

**Section 907.2.11.2 Smoke Detectors** *additional requirement for smoke detection in corridors for R-2, R-4 and I-1 occupancies. Current code only covers inside the apartments and not areas once they leave the apartment.*

**Section 2304.3.8 Unattended self-service motor fuel-dispensing facilities** *Unattended fueling stations must have fire suppression This amendment has been carried over from the 2009 IFC*

**NFPA Pamphlets** *adoption of the latest NFPA codes and standards. Included with these adoptions will be Annex B of NFPA 96 which covers mobile and temporary cooking operations.*

**NFPA 101 Life Safety Code** *We have removed chapter 24, one and two family dwelling code. This amendment is identical to the one enacted with the adoption of the 2009 IFC codes.*

## SCOPE AND ADMINISTRATION

reapply for a permit. The code specifies seven specific conditions that allow the fire code official to revoke a permit.

**105.6 Required operational permits.** The fire code official is authorized to issue operational permits for the operations set forth in Sections 105.6.1 through 105.6.48.

♦ Sections 105.6.1 through 105.6.48 list the conditions requiring operational permits. Many of the items are stated in general terms, in which case the fire code official is to determine whether a specific operation is a significant hazard that requires a permit.

**105.6.1 Aerosol products.** An operational permit is required to manufacture, store or handle an aggregate quantity of Level 2 or Level 3 aerosol products in excess of 500 pounds (227 kg) net weight.

♦ See Chapter 51 for code requirements covering aerosol products (see commentary, Section 105.6).

**105.6.2 Amusement buildings.** An operational permit is required to operate a special amusement building.

♦ For requirements that apply to special amusement buildings, see Sections 202, 907.2.12 and 914.7.1, and Section 411 of the IBC (see commentary, Section 105.6).

**105.6.3 Aviation facilities.** An operational permit is required to use a Group H or Group S occupancy for aircraft servicing or repair and aircraft fuel-servicing vehicles. Additional permits required by other sections of this code include, but are not limited to, hot work, hazardous materials and flammable or combustible finishes.

♦ See Chapter 20 for aviation facility requirements (see commentary, Section 105.6).

**105.6.4 Carbon dioxide systems used in beverage dispensing applications.** An operational permit is required for carbon dioxide systems used in beverage dispensing applications having more than 100 pounds of carbon dioxide.

♦ A permit is required only for larger systems, having more than 100 pounds of carbon dioxide, where the hazard of release and possible asphyxiation is more likely. The amount correlates with the applicability of Section 5307. See commentaries for Sections 908.7 and 5307 for more detailed requirements.

**105.6.5 Carnivals and fairs.** An operational permit is required to conduct a carnival or fair.

♦ See Section 3103.3 for carnival requirements (see commentary, Section 105.6).

**105.6.6 Cellulose nitrate film.** An operational permit is required to store, handle or use cellulose nitrate film in a Group A occupancy.

♦ Although cellulose nitrate film is no longer in general use, there are a small number of locations in which this type of film is archived or restored for historical purposes. This section applies to those few locations

(see Section 306 for cellulose nitrate film requirements).

**105.6.7 Combustible dust-producing operations.** An operational permit is required to operate a grain elevator, flour starch mill, feed mill, or a plant pulverizing aluminum, coal, cocoa, magnesium, spices or sugar, or other operations producing *combustible dusts* as defined in Chapter 2.

♦ See Chapter 22 for combustible dust-producing operations (see commentary, Section 105.6).

**105.6.8 Combustible fibers.** An operational permit is required for the storage and handling of *combustible fibers* in quantities greater than 100 cubic feet (2.8 m<sup>3</sup>).

**Exception:** A permit is not required for agricultural storage.

♦ See Chapter 37 for combustible fiber requirements. The exception is for agricultural storage facilities where the hazard to persons is minimal (see Section 105.6).

**105.6.9 Compressed gases.** An operational permit is required for the storage, use or handling at *normal temperature and pressure* (NTP) of *compressed gases* in excess of the amounts listed in Table 105.6.9.

**Exception:** Vehicles equipped for and using *compressed gas* as a fuel for propelling the vehicle.

♦ See Chapter 53 for compressed gas requirements. The exception exempts vehicles equipped for compressed gas, since the code requirements for compressed gases do not apply to them.

TABLE 105.6.9  
PERMIT AMOUNTS FOR COMPRESSED GASES

TYPE OF GAS	AMOUNT (cubic feet at NTP)
Corrosive	200
Flammable (except cryogenic fluids and liquefied petroleum gases)	200
Highly toxic	Any Amount
Inert and simple asphyxiant <sup>a</sup>	6,000
Oxidizing (including oxygen)	504
Pyrophoric	Any Amount
Toxic	Any Amount

For SI: 1 cubic foot = 0.02832 m<sup>3</sup>.

a. For carbon dioxide used in beverage dispensing applications, see Section 105.6.4.

♦ When the use of compressed gases exceeds the amounts indicated in Table 105.6.9, an operational permit is required. The quantities in the table are at normal temperature and pressure (NTP) (see Chapter 53 for compressed gas requirements). A reference is provided to Section 105.6.4 addressing a specific requirement for systems having more than 100 pounds of carbon dioxide used for beverage dispensing.

**105.6.10 Covered and open mall buildings.** An operational permit is required for:

1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall.
  2. The display of liquid- or gas-fired equipment in the mall.
  3. The use of open-flame or flame-producing equipment in the mall.
- ❖ The listed operations in a covered or open mall building require an operational permit, since they involve a significant hazard to the occupants. See Section 308 for open-flame regulations (see Section 105.6).

**105.6.11 Cryogenic fluids.** An operational permit is required to produce, store, transport on site, use, handle or dispense *cryogenic fluids* in excess of the amounts listed in Table 105.6.11.

**Exception:** Permits are not required for vehicles equipped for and using *cryogenic fluids* as a fuel for propelling the vehicle or for refrigerating the lading.

- ❖ See Chapter 55 for requirements regarding cryogenic fluids. The exception exempts vehicles using cryogenic fluids, since the code requirements do not apply to them.

TABLE 105.6.11  
PERMIT AMOUNTS FOR CRYOGENIC FLUIDS

TYPE OF CRYOGENIC FLUID	INSIDE BUILDING (gallons)	OUTSIDE BUILDING (gallons)
Flammable	More than 1	60
Inert	60	500
Oxidizing (includes oxygen)	10	50
Physical or health hazard not indicated above	Any Amount	Any Amount

For SI: 1 gallon = 3.785 L.

- ❖ Where cryogenic fluids are used in excess of the amounts shown in Table 105.6.10, an operational permit is required. The listed amounts are significantly different inside or outside of a building, since the hazard is greatly reduced if a leak occurs outdoors.

**105.6.12 Cutting and welding.** An operational permit is required to conduct cutting or welding operations within the jurisdiction.

- ❖ See Chapter 35 for welding requirements (see commentary, Section 105.6).

**105.6.13 Dry cleaning.** An operational permit is required to engage in the business of dry cleaning or to change to a more hazardous cleaning solvent used in existing dry cleaning equipment.

- ❖ See Chapter 21 for dry cleaning regulations (see commentary, Section 105.6).

**105.6.14 Exhibits and trade shows.** An operational permit is required to operate exhibits and trade shows.

- ❖ The primary concern is to identify hazardous and highly flammable materials that could be involved in an exhibit or booth (see commentary, Section 105.6).

**105.6.15 Explosives.** An operational permit is required for the manufacture, storage, handling, sale or use of any quantity of *explosives, explosive materials*, fireworks or pyrotechnic special effects within the scope of Chapter 56.

**Exception:** Storage in Group R-3 occupancies of smokeless propellant, black powder and small arms primers for personal use, not for resale and in accordance with Section 5606.

- ❖ See Chapter 56 for requirements for explosives and fireworks (see commentary, Section 105.6 and Chapter 56).

The exception correlates the permit requirements for the possession, storage or use of smokeless propellant, black powder and small arms primers for personal use in Group R-3 residential occupancies with the scope of Chapter 56, as stated in Section 5601.1, Exception 4, and Section 5606.4. The exception is also consistent with NFPA 495, referenced in Chapter 56, which limits quantities allowed in residences, but allows for quantities in residences outside the scope of Chapter 56 to be regulated without a permit.

**105.6.16 Fire hydrants and valves.** An operational permit is required to use or operate fire hydrants or valves intended for fire suppression purposes that are installed on water systems and accessible to a fire apparatus access road that is open to or generally used by the public.

**Exception:** A permit is not required for authorized employees of the water company that supplies the system or the fire department to use or operate fire hydrants or valves.

- ❖ An operational permit is required for persons other than authorized employees of the water company or the fire department to operate fire hydrants or valves. This restriction is intended to make sure that the use will not result in a lack of water supply and pressure that may be needed for fire-fighting purposes. The exception allows water company employees or the fire department to use fire hydrants or valves without a permit. Such use is common in order to flush out the piping periodically. When fire departments or fire districts interact with water districts, they should communicate the need for the fire department to use the hydrants and valves for nonemergency situations, such as training. A notification procedure is needed to let the water district know of this planned use.

**105.6.17 Flammable and combustible liquids.** An operational permit is required:

1. To use or operate a pipeline for the transportation within facilities of flammable or *combustible liquids*.

## SCOPE AND ADMINISTRATION

This requirement shall not apply to the off-site transportation in pipelines regulated by the Department of Transportation (DOT) nor does it apply to piping systems.

2. To store, handle or use Class I liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following:
  - 2.1. The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the *fire code official*, would cause an unsafe condition.
  - 2.2. The storage or use of paints, oils, varnishes or similar flammable mixtures where such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.
3. To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95 L) in a building or in excess of 60 gallons (227 L) outside a building, except for fuel oil used in connection with oil-burning equipment.
4. To store, handle or use Class IIIB liquids in tanks or portable tanks for fueling motor vehicles at motor fuel-dispensing facilities or where connected to fuel-burning equipment.

**Exception:** Fuel oil and used motor oil used for space heating or water heating.
5. To remove Class I or II liquids from an underground storage tank used for fueling motor vehicles by any means other than the *approved*, stationary on-site pumps normally used for dispensing purposes.
6. To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and *combustible liquids* are produced, processed, transported, stored, dispensed or used.
7. To place temporarily out of service (for more than 90 days) an underground, protected above-ground or above-ground flammable or *combustible liquid* tank.
8. To change the type of contents stored in a flammable or *combustible liquid* tank to a material that poses a greater hazard than that for which the tank was designed and constructed.
9. To manufacture, process, blend or refine flammable or *combustible liquids*.
10. To engage in the dispensing of liquid fuels into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments.
11. To utilize a site for the dispensing of liquid fuels from tank vehicles into the fuel tanks of motor vehicles, marine craft and other special equipment at commercial,

industrial, governmental or manufacturing establishments.

- ♦ See Chapter 57 for regulations regarding flammable and combustible liquids (see commentary, Section 105.6).

**105.6.18 Floor finishing.** An operational permit is required for floor finishing or surfacing operations exceeding 350 square feet (33 m<sup>2</sup>) using Class I or Class II liquids.

- ♦ The concern of this section is the proper use and handling of Class I or II liquids that are used in the floor-finishing process. If such liquids are not used, an operational permit is not required for floor finishing.

**105.6.19 Fruit and crop ripening.** An operational permit is required to operate a fruit- or crop-ripening facility or conduct a fruit-ripening process using ethylene gas.

- ♦ See Chapter 25 for regulations for fruit- and crop-ripening processes where ethylene gas is used (see commentary, Section 105.6).

**105.6.20 Fumigation and insecticidal fogging.** An operational permit is required to operate a business of fumigation or insecticidal fogging, and to maintain a room, vault or chamber in which a toxic or flammable fumigant is used.

- ♦ See Chapter 26 for fumigation and insecticidal fogging regulations within structures (see commentary, Section 105.6).

**105.6.21 Hazardous materials.** An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.6.21.

- ♦ See Chapter 50 for the general provisions regarding hazardous materials. Also see Chapters 51 through 67 for regulations regarding a specific hazardous material (see commentary, Section 105.6).

**TABLE 105.6.21.** See page 3-25.

- ♦ Where the amounts of hazardous materials in the table are exceeded, an operational permit is required. This applies to the storage, transportation on site, dispensing, use or handling of the hazardous materials that are listed in the table.

Table Notes a and b create parity for Class 3 oxidizer permit amounts with the adjustments to the maximum allowable quantity per control area (MAQ) specified in Table 5003.1.1(1), Note k. This eliminates the need for small apartment complexes and similar occupancies with swimming pools to obtain permits for normal pool maintenance using relatively small amounts of material.

**105.6.22 HPM facilities.** An operational permit is required to store, handle or use hazardous production materials.

- ♦ See Chapter 27 for regulations regarding semiconductor fabrication facilities (see commentary, Section 105.6).

**TABLE 105.6.21**  
**PERMIT AMOUNTS FOR HAZARDOUS MATERIALS**

TYPE OF MATERIAL	AMOUNT
Combustible liquids	See Section 105.6.17
Corrosive materials	
Gases	See Section 105.6.9
Liquids	55 gallons
Solids	1000 pounds
Explosive materials	See Section 105.6.15
Flammable materials	
Gases	See Section 105.6.9
Liquids	See Section 105.6.17
Solids	100 pounds
Highly toxic materials	
Gases	See Section 105.6.9
Liquids	Any Amount
Solids	Any Amount
Oxidizing materials	
Gases	See Section 105.6.9
Liquids	
Class 4	Any Amount
Class 3	1 gallon <sup>a</sup>
Class 2	10 gallons
Class 1	55 gallons
Solids	
Class 4	Any Amount
Class 3	10 pounds <sup>b</sup>
Class 2	100 pounds
Class 1	500 pounds
Organic peroxides	
Liquids	
Class I	Any Amount
Class II	Any Amount
Class III	1 gallon
Class IV	2 gallons
Class V	No Permit Required
Solids	
Class I	Any Amount
Class II	Any Amount
Class III	10 pounds
Class IV	20 pounds
Class V	No Permit Required
Pyrophoric materials	
Gases	Any Amount
Liquids	Any Amount
Solids	Any Amount
Toxic materials	
Gases	See Section 105.6.9
Liquids	10 gallons
Solids	100 pounds
Unstable (reactive) materials	
Liquids	
Class 4	Any Amount
Class 3	Any Amount
Class 2	5 gallons
Class 1	10 gallons
Solids	
Class 4	Any Amount
Class 3	Any Amount
Class 2	50 pounds
Class 1	100 pounds

(continued)

**TABLE 105.6.21—continued**  
**PERMIT AMOUNTS FOR HAZARDOUS MATERIALS**

TYPE OF MATERIAL	AMOUNT
Water-reactive materials	
Liquids	
Class 3	Any Amount
Class 2	5 gallons
Class 1	55 gallons
Solids	
Class 3	Any Amount
Class 2	50 pounds
Class 1	500 pounds

For SI: 1 gallon = 3.785 L, 1 pound = 0.454 kg.

a. 20 gallons where Table 5003.1.1(1) Note k applies and hazard identification signs in accordance with Section 5003.5 are provided for quantities of 20 gallons or less.

b. 200 pounds where Table 5003.1.1(1) Note k applies and hazard identification signs in accordance with Section 5003.5 are provided for quantities of 200 pounds or less.

**105.6.23 High-piled storage.** An operational permit is required to use a building or portion thereof as a *high-piled storage area* exceeding 500 square feet (46 m<sup>2</sup>).

♦ See Chapter 32 for high-piled storage provisions (see commentary, Section 105.6).

**105.6.24 Hot work operations.** An operational permit is required for hot work including, but not limited to:

1. Public exhibitions and demonstrations where hot work is conducted.

2. Use of portable hot work equipment inside a structure.

**Exception:** Work that is conducted under a construction permit.

3. Fixed-site hot work equipment, such as welding booths.

4. Hot work conducted within a wildfire risk area.

5. Application of roof coverings with the use of an open-flame device.

6. Where *approved*, the *fire code official* shall issue a permit to carry out a hot work program. This program allows *approved* personnel to regulate their facility's hot work operations. The *approved* personnel shall be trained in the fire safety aspects denoted in this chapter and shall be responsible for issuing permits requiring compliance with the requirements found in Chapter 35. These permits shall be issued only to their employees or hot work operations under their supervision.

♦ See Chapter 35 for hot work regulations. The exception to Item 2 in this section recognizes that work done under a construction permit is already covered by that permit so an operational permit is not required (see commentary, Section 105.6).

**105.6.25 Industrial ovens.** An operational permit is required for operation of industrial ovens regulated by Chapter 30.

♦ See Chapter 30 for regulations regarding industrial ovens (see commentary, Section 105.6).

## SCOPE AND ADMINISTRATION

**105.6.26 Lumber yards and woodworking plants.** An operational permit is required for the storage or processing of lumber exceeding 100,000 board feet (8,333 ft<sup>3</sup>) (236 m<sup>3</sup>).

❖ See Chapter 28 for provisions for lumber yards and woodworking plants (see commentary, Section 105.6).

**105.6.27 Liquid- or gas-fueled vehicles or equipment in assembly buildings.** An operational permit is required to display, operate or demonstrate liquid- or gas-fueled vehicles or equipment in assembly buildings.

❖ See Section 314.4 for requirements regarding liquid- or gas-fueled vehicles inside buildings (see commentary, Section 105.6).

**105.6.28 LP-gas.** An operational permit is required for:

1. Storage and use of LP-gas.

**Exception:** A permit is not required for individual containers with a 500-gallon (1893 L) water capacity or less or multiple container systems having an aggregate quantity not exceeding 500 gallons (1893 L), serving occupancies in Group R-3.

2. Operation of cargo tankers that transport LP-gas.

❖ See Chapter 61 for liquefied petroleum gas (LP-gas) regulations. The exception to Item 1 in this section exempts small tanks with an individual capacity of 500 gallons (1893 L) or multiple small tanks with an aggregate capacity of 500 gallons (1893 L) commonly found in residential service. A permit is required where the aggregate quantity of multiple small LP-gas containers exceeds 500 gallons (1893 L). It has become commonplace for LP-gas distributors to install LP-gas systems exceeding 500 gallons (1893 L) that consist of multiple containers in series with individual containers that do not exceed 500 gallons (1893 L), thereby avoiding the permit requirement. It is appropriate to require a permit at these locations given the significant hazard associated with these quantities. Item 2 covers cargo tankers, since they transport LP-gas onto premises covered by the code and, therefore, represent a potential hazard.

**105.6.29 Magnesium.** An operational permit is required to melt, cast, heat treat or grind more than 10 pounds (4.54 kg) of magnesium.

❖ See Section 5906 for the code requirements for magnesium (see commentary, Section 105.6).

**105.6.30 Miscellaneous combustible storage.** An operational permit is required to store in any building or upon any premises in excess of 2,500 cubic feet (71 m<sup>3</sup>) gross volume of combustible empty packing cases, boxes, barrels or similar containers, rubber tires, rubber, cork or similar combustible material.

❖ See Section 315 for requirements for miscellaneous combustible material storage (see commentary, Section 105.6).

**105.6.31 Motor fuel-dispensing facilities.** An operational permit is required for the operation of automotive, marine and fleet motor fuel-dispensing facilities.

❖ See Chapter 23 for requirements for motor fuel-dispensing facilities (see commentary, Section 105.6).

**105.6.32 Open burning.** An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to.

**Exception:** *Recreational fires.*

❖ See Section 307 for open burning provisions. Section 202 includes the definition of "Open burning." The exception exempts recreational fires, which are also defined in Section 202.

**105.6.33 Open flames and torches.** An operational permit is required to remove paint with a torch; or to use a torch or open-flame device in a wildfire risk area.

❖ See Section 308 for regulations regarding open flames (see commentary, Section 105.6).

**105.6.34 Open flames and candles.** An operational permit is required to use open flames or candles in connection with assembly areas, dining areas of restaurants or drinking establishments.

❖ See Section 308 for regulations regarding open flames (see commentary, Section 105.6).

**105.6.35 Organic coatings.** An operational permit is required for any organic-coating manufacturing operation producing more than 1 gallon (4 L) of an organic coating in one day.

❖ The manufacture of organic coatings is addressed in Chapter 29 (see commentary, Section 105.6).

**105.6.36 Places of assembly.** An operational permit is required to operate a place of assembly.

❖ Because of the higher occupant loads found in Group A occupancies, such occupancies justify an increased level of scrutiny, such as is provided through the permit process.

**105.6.37 Private fire hydrants.** An operational permit is required for the removal from service, use or operation of private fire hydrants.

**Exception:** A permit is not required for private industry with trained maintenance personnel, private fire brigade or fire departments to maintain, test and use private hydrants.

❖ The purpose of an operational permit for the removal of private fire hydrants is to see that adequate fire hydrants are maintained for use during a fire. The exception allows testing and use of private fire hydrants by trained private industry personnel without an operational permit.



**105.6.38 Pyrotechnic special effects material.** An operational permit is required for use and handling of pyrotechnic special effects material.

♦ See Chapter 56 for fireworks regulations. The definition of "Pyrotechnic special effects material" is listed in Section 56 (see commentary, Section 105.6).

**105.6.39 Pyroxylin plastics.** An operational permit is required for storage or handling of more than 25 pounds (11 kg) of cellulose nitrate (pyroxylin) plastics, and for the assembly or manufacture of articles involving pyroxylin plastics.

♦ See Chapter 65 for requirements regarding pyroxylin (cellulose nitrate) plastics (see commentary, Section 105.6).

**105.6.40 Refrigeration equipment.** An operational permit is required to operate a mechanical refrigeration unit or system regulated by Chapter 6.

♦ See Section 606 for mechanical refrigeration regulations (see commentary, Section 105.6).

**105.6.41 Repair garages and motor fuel-dispensing facilities.** An operational permit is required for operation of repair garages.

♦ See Chapter 23 for requirements for repair garages (see commentary, Section 105.6).

**105.6.42 Rooftop heliports.** An operational permit is required for the operation of a rooftop heliport.

♦ See Chapter 20 for aviation facility requirements. Section 2007 contains helistop and heliport requirements (see commentary, Section 105.6).

**105.6.43 Spraying or dipping.** An operational permit is required to conduct a spraying or dipping operation utilizing flammable or *combustible liquids*, or the application of combustible powders regulated by Chapter 24.

♦ See Chapter 24 for flammable finish requirements. Section 2404 contains the spray finishing provisions, Section 2405 addresses dipping operations and Section 2406 includes powder coating regulations (see commentary, Section 105.6).

**105.6.44 Storage of scrap tires and tire byproducts.** An operational permit is required to establish, conduct or maintain storage of scrap tires and tire byproducts that exceeds 2,500 cubic feet (71 m<sup>3</sup>) of total volume of scrap tires, and for indoor storage of tires and tire byproducts.

♦ See Chapter 34 for regulations regarding tire rebuilding and tire storage (see Section 105.6).

**105.6.45 Temporary membrane structures and tents.** An operational permit is required to operate an air-supported temporary membrane structure, a temporary stage canopy or a tent having an area in excess of 400 square feet (37 m<sup>2</sup>).

#### Exceptions:

1. Tents used exclusively for recreational camping purposes.

2. Tents open on all sides, which comply with all of the following:

- 2.1. Individual tents having a maximum size of 700 square feet (65 m<sup>2</sup>).

- 2.2. The aggregate area of multiple tents placed side by side without a fire break clearance of not less than 12 feet (3658 mm) shall not exceed 700 square feet (65 m<sup>2</sup>) total.

- 2.3. A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be provided.

♦ See Chapter 31 for requirements for tents and other membrane structures. The first exception in this section exempts recreational camping tents, since they are small, temporary and have few occupants. The second exception exempts relatively small tents that are very low hazard, since they are spaced at least 12 feet (3658 mm) apart (see also commentary, Section 3103.20).

**105.6.46 Tire-rebuilding plants.** An operational permit is required for the operation and maintenance of a tire-rebuilding plant.

♦ See Chapter 34 for regulations regarding tire rebuilding operations (see commentary, Section 105.6).

**105.6.47 Waste handling.** An operational permit is required for the operation of wrecking yards, junk yards and waste material-handling facilities.

♦ See Section 315 for miscellaneous combustible materials storage requirements, Section 5004 for provisions regarding the storage of hazardous materials and Section 2808 for provisions regarding yard waste and recycling facilities (see commentary, Section 105.6).

**105.6.48 Wood products.** An operational permit is required to store chips, hogged material, lumber or plywood in excess of 200 cubic feet (6 m<sup>3</sup>).

♦ See Section 2808 for requirements regarding the storage and handling of wood chips, hogged material, fines, compost and raw product in association with yard waste and recycling facilities (see commentary, Section 105.6).

**[A] 105.7 Required construction permits.** The *fire code official* is authorized to issue construction permits for work as set forth in Sections 105.7.1 through 105.7.18.

♦ This section addresses conditions requiring a construction permit (see Section 105.6). Generally, a construction permit is required when a safety related system or hazardous material storage is installed or an existing system or facility is modified. Other sections of the code may also apply.

In some cases, the requirements in Sections 105.7.1 through 105.7.18 are stated in only general terms. In these instances, the fire code official is to

**12.03.010 - Designated activities requiring permits and fees.**

It is unlawful for any person, firm or corporation to engage in the activities listed below without first having obtained from the fire department the appropriate permit and without having first paid the fee therefor. Except as specifically listed elsewhere in this title, the fees for permits issued hereunder shall be as set forth in the prevailing schedule of fees as most recently adopted by the city council of the city of Council Bluffs, Iowa.

(1)

**Installation fee activities:**

(A)

**Flammable and combustible liquid tanks, compressed and liquefied gas systems:**

(i)

For each tank as set forth in the schedule of fees.

(2)

**Removal fee activities:**

(A)

**Underground storage tanks:**

(i)

For each tank as set forth in the schedule of fees.

(3)

**Annual fee activities:**

(A)

Storage of flammable and combustible liquids, compressed and liquefied gas, with storage capacity of one thousand (1,000) gallons and exceeding therefrom as set forth in the schedule of fees;

(B)

**Retail dealers in flammable liquids, combustible, explosive materials or public garages:**

(i)

Pedestalator or outlet service pump,

(ii)

Ammunition: store or sell small arms ammunition,

(iii)

Calcium carbide, to store over one hundred (100) pounds of such,

(iv)

Chemicals, to store over two hundred fifty (250) gallons of hazardous chemicals,

(v)

Dry cleaners, to operate such,

(vi)

Laundromats, to operate such,

(vii)

Finishing shop, including painting, spraying and dipping, storing more than five gallons of flammable finish, to operate such,

(viii)

Public garages, including car washes, to operate such,

(ix)

Oil dealers, to operate such,

(x)

Paint dealers, to operate such,

(xi)

Refrigeration systems, to operate and maintain a refrigeration system containing more than twenty (20) pounds of refrigerant,

(xii)

Lumberyards, to operate such,

(xiii)

Tent sales, to operate such,

(xiv)

Grain elevators, to operate such,

(xv)

Acetylene torch or propane torch over ten (10) pounds.

(4)

One permit shall be required for retail establishments dealing in, or manufacturing plants using, two or more flammable, combustible or explosive materials to be kept in the establishment at any one time.

(5)

Fireworks displays.

(Ord. 5893 § 1, 2006).

portion thereof shall not be allowed. The *fire code official*, upon finding any overcrowding conditions or obstructions in *aisles*, passageways or other *means of egress*, or upon finding any condition that constitutes a life safety hazard, shall be authorized to cause the event to be stopped until such condition or obstruction is corrected.

♦ The key to enforcing this provision successfully is good judgment. Rarely is it possible to count accurately the number of people in any given place of public assembly. Usually, the proprietors or operators of such events have no accurate estimate of the crowd size or they are unwilling to provide an estimate. Despite these difficulties, when the number of people is too large to permit aisles and required egress elements to remain clear or at least flow smoothly, remedies must be sought. In many instances, overcrowding can be remedied by simply preventing any more occupants from entering, thus limiting the potential hazard to those occupants already inside. If the fire code official determines that preventing further access will be insufficient in itself, he or she is authorized to order the owner or operator to stop the event until the hazardous condition is abated, the approved occupant load is reestablished and resumption of the event is authorized by the fire code official.

## SECTION 108 BOARD OF APPEALS

**[A] 108.1 Board of appeals established.** In order to hear and decide appeals of orders, decisions or determinations made by the *fire code official* relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The *fire code official* shall be an ex officio member of said board but shall not have a vote on any matter before the board. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the *fire code official*.

♦ This section provides an objective forum for settling disputes regarding the application or interpretation of the code requirements. The board is required to issue a written decision to the appellant who brought the matter before the board and to the fire code official. Note that the fire code official is a nonvoting member of the board. The board of appeals is an effective decision-making body that is commonly used when the owner or owner's agent and the fire code official do not agree on a matter relating to the application of the code.

**[A] 108.2 Limitations on authority.** An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The

board shall not have authority to waive requirements of this code.

♦ This section states the scope of the issues that are to be addressed by the board of appeals and limits its authority to ruling on these issues. Commonly, the issues relate to the applicability of the code or the interpretation of the code to a given situation. The board listens to both the person who filed the appeal and to the fire code official before ruling on the matter.

This section specifically states that the board does not have the authority to waive code requirements; however, the board has the authority to accept an alternative method of protection or safety if, in its view, it is equivalent to the specific requirement in the code.

**[A] 108.3 Qualifications.** The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or *fire protection systems*, and are not employees of the jurisdiction.

♦ It is important that the decisions of the board of appeals are based purely on the technical merits involved in an appeal; it is not the place for policy or political deliberations. The members of the board of appeals are, therefore, expected to have experience in matters within the scope of the code and must be of the highest character, competence and status in their professions and the community at large. Appendix A of the code provides more detailed qualifications for board of appeals members and can be adopted by jurisdictions desiring that level of expertise (see commentary, Appendix A).

## SECTION 109 VIOLATIONS

**[A] 109.1 Unlawful acts.** It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premises or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

♦ Section 109 establishes that compliance with the code is required, and what measures are to be taken for noncompliance.

**[A] 109.2 Owner/occupant responsibility.** Correction and abatement of violations of this code shall be the responsibility of the *owner* or the owner's authorized agent. Where an occupant creates, or allows to be created, hazardous conditions in violation of this code, the occupant shall be held responsible for the abatement of such hazardous conditions.

♦ Hazards related to use and occupancy, and not those related to fixed equipment or installations, fall within the scope of the occupants' responsibility. Owners or the owner's authorized agent, however, may become liable if they allow the unlawful operation or continua-

## 13.01.110 - Board of appeals.

(a)

**General.** In order to hear and decide appeals of orders, decision or determinations made by the building official relative to the application and interpretations of the technical code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and building service equipment and who are not employees of the jurisdiction. The building official shall be an ex officio member and shall act as secretary to said board but shall have no vote upon any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedures for conducting its business and shall render all decision and findings in writing to the appellant with a duplicate copy to the chief building official.

(b)

**Limitations of Authority.** The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code or the administrative provisions of the technical codes nor shall the board be empowered to waive mandatory requirements of either this code or the technical code. The board shall have the authority to hear and decide appeals of order, decision or determinations made by the building official relative to the application and interpretations of the technical code.

(c)

**Board of Appeals created.** In order to hear and decide appeals of orders, decisions or determinations made by the building official, fire marshal or their designees relative to the application and interpretation of Titles 12, 13, and 17 of the Municipal Code, there shall be and is hereby created board of appeals.

(d)

**Consistency of the Board of Appeals.** The board of appeals shall consist of members to be appointed by the mayor and approved by the city council. The members of the board of appeals shall be chosen from the residents of the city of Council Bluffs or from those who operate a business within the corporate limits of the city of Council Bluffs, with reference to their fitness, knowledge and qualifications for such position.

The term of office for the members of the board of appeals shall be five-year terms. Initial appointments shall stagger the term expiration by appointing three members of the board for a three-year term and four members with a five-year term. The members of the board of appeals shall serve until their successors are appointed. The board of appeals members shall serve without pay.

Board of appeals members may be removed for cause by the mayor with approval of the city council. Vacancies shall be filled for an unexpired term in the same manner as appointments. A vacancy occurs when a member resigns, dies, moves from the state, is removed for cause, has unexcused absences, as determined by the board of appeals from three or more of the board of appeals meetings within any twelve-month period.

The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to construction, design and the trades. Members of the board of appeals shall not be employed by the city of Council Bluffs.

The consistency of the board of appeals shall include the following: a licensed Class A or B general contractor; a licensed master plumber; a licensed master mechanical contractor; a licensed Class A master electrician; a state of Iowa licensed professional architect or engineer; a current registered landlord who permanently resides within the Council Bluffs city limits and a citizen at large representative who permanently resides within the Council Bluffs city limits.

(e)

Capacity of the Board of Appeals. The board of appeals shall act in an advisory capacity to the mayor and city council in regard to the adopted codes, construction and related matters of interest to the city. The building official shall provide such assistance as requested by the board of appeals.

The building official shall be an ex-officio member of and shall act in a secretary capacity to said board of appeals but shall have no vote on any matter before the board of appeals. The board secretary shall record the names and addresses of all persons examined and licensed by each board, the results of the exam and the kinds of licenses issued to each applicant, if any, and the date of issuance.

(f)

Policies of the Board of Appeals.

(1)

Any individual or group aggrieved by a decision of the building official may appeal that decision within thirty (30) days by filing a written notice and an administrative filing fee with the building official.

(2)

Within fourteen (14) days after the appeal is filed, the board of appeals shall schedule a hearing on the appeal. The hearing shall be held within thirty (30) days after the filing of the appeal, unless the parties agree otherwise.

(3)

Hearings shall be conducted in an informal manner; formal rules of evidence shall not apply. At the hearing, all parties shall have the opportunity to present evidence and cross-examine witnesses.

(4)

The board of appeals may establish additional written rules of procedure for the conduct of hearings and their business.

(5)

The board of appeals may continue the hearing to a specified time and date if the board of appeals determines that additional evidence is necessary to decide the issue.

(6)

At the conclusion of the hearing, or within ten (10) days after the hearing, the board of appeals shall make written findings and either sustain, modify, or reverse the order of the building official. The

written findings and decision shall be mailed to the appellant at the appellant's last known address. The secretary of the appeal board shall maintain the written findings and decision as a public record.

(g)

**Procedures of the Board of Appeals.** The board of appeals shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy retained by the building official. The members of the board of appeals will each vote on a chair and a vice-chair of the board to be appointed. For all business purposes, a quorum is required and is defined as a majority of the appointed members of the board of appeals.

(h)

**Application to the Board of Appeals.** An application for appeal shall be based on a claim that the true intent of the adopted codes or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the adopted codes do not fully apply or an equally good or better form of construction is proposed. An application fee in the amount listed in the schedule of fees shall be paid to the city treasurer prior to scheduling the board of appeals meeting. Their meetings shall be scheduled or called on an as needed basis.

There shall be an administrative fee for filing an appeal with the board of appeals as found in schedule of fees located in the city clerk's office.

(i)

**Review by Court.** The city and any person or persons who have appealed to the board of appeals and are aggrieved by their decision may appeal the decision to a court of competent jurisdiction pursuant to the provisions of Iowa law.

(Ord. No. 6180, § 1, 6-24-13; Ord. No. 6192, § 1, 8-26-13)

**Editor's note—** Ord. No. 6180, § 1, adopted June 24, 2013, repealed the former § 13.01.110, and enacted a new § 13.01.110 as set out herein. The former § 13.01.110 pertained to similar subject matter and derived from Ord. No. 6098, § adopted October 25, 2010.



- Whether court filings should be sought during the appeal application period.
- Rules for obtaining arrest warrants for code violations.
- Rules for obtaining administrative and criminal search warrants.

The cooperation of the police department and other law enforcement agencies should be coordinated in advance. When necessary to enforce code provisions, arrangements should be made to have police or other law enforcement personnel make arrests for code violations or ignoring lawful orders of the fire code official.

**[A] 109.3.4 Unauthorized tampering.** Signs, tags or seals posted or affixed by the *fire code official* shall not be mutilated, destroyed or tampered with, or removed, without authorization from the *fire code official*.

- ◆ This section states that tampering with signs, seals or tags posted at the property is a violation of the code. The safety of occupants may depend on warning signs posted by the fire code official remaining in place.

**[A] 109.4 Violation penalties.** Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the *approved construction documents* or directive of the *fire code official*, or of a permit or certificate used under provisions of this code, shall be guilty of a **[SPECIFY OFFENSE]**, punishable by a fine of not more than **[AMOUNT]** dollars or by imprisonment not exceeding **[NUMBER OF DAYS]**, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

- ◆ Penalties for code violations must be established in adopting legislation. The offense, dollar amount for the fine and maximum number of days of imprisonment are to be specific in the adopting ordinance of the jurisdiction. A sample adoption ordinance is on page xxi of the code.

The code does not establish penalties for violations. The jurisdiction's judicial and legislative bodies should work with the fire code official to establish reasonable and equitable penalties for violators. The penalties set for individual violations should be representative of the severity of the act committed and the culpability of the violator. Once served with a violation notice, the violator becomes guilty of a separate offense for each day the violation continues to exist; however, most prosecutors and courts are reluctant to impose this penalty for days during the compliance period. Many violators wrongly assume that the Seventh Amendment of the U.S. Constitution, which offers protection against double jeopardy, exempts them from compliance once they have paid or served their sentence for a previous fire code violation. This is certainly not the case. Most courts reinforce the compliance requirement in such cases by making compliance a condition for completing the sentence.

Failure to comply with the judge's order mandating compliance may result in a contempt of court charge.

**[A] 109.4.1 Abatement of violation.** In addition to the imposition of the penalties herein described, the *fire code official* is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

- ◆ Even though the person who violated the code has paid any fine and served any sentence that may be imposed for the jurisdiction under Section 109.4, the fire code official has the right to require that the code violation be removed. If the violation is not abated, the fire code official has the right to prevent occupancy until the violation is addressed. Usually, the court will require that the violation be corrected as part of the sentence of noncompliance prior to the occupancy of the building.

## SECTION 110 UNSAFE BUILDINGS

**[A] 110.1 General.** If during the inspection of a premises, a building or structure, or any building system, in whole or in part, constitutes a clear and inimical threat to human life, safety or health, the *fire code official* shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section, and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required.

- ◆ The fire code official is required to order the correction or abatement of hazardous conditions within the scope of the code and to refer the building to the building department for those operations that are within the scope of that department. The conditions listed in Section 110.1.1 represent many of the most common hazardous conditions encountered. Specific requirements supporting each of these objectives are found throughout the code.

**[A] 110.1.1 Unsafe conditions.** Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate *means of egress* or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure that is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.

- ◆ Courts have continually upheld the right of states and their authorized subdivisions to abate public nuisances, even by demolition, and bill or assess the property owner through a tax lien for their expenses. However, care must be exercised to maintain compliance with the due process and equal protection doctrines of the Fourth and Fourteenth Amendments of the U.S. Constitution. Jurisdictions should consult legal counsel and adopt appropriate guidelines

**1.95.010 - Definitions.**

The following terms, phrases, words and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" as used in this chapter is mandatory and not merely directory.

(1)

"Code" means the Municipal Code of Council Bluffs, Iowa, as may be amended from time to time.

(2)

"Municipal infraction" is a civil offense punishable by a civil penalty as set forth in the schedule of civil penalties contained in Section 1.95.020.

(3)

"Repeat offense" means a recurring violation of the same section of the Municipal Code of Council Bluffs, Iowa, by the same person within any twenty-four-month period anywhere within the jurisdiction of this code.

(Ord. 5418 § 1, 1998).

**1.95.020 - Violations, penalties and alternative relief.**

(a)

Any violation of the code, with the exception of any violation which is a felony or misdemeanor under state law, is a municipal infraction.

(b)

Unless another civil penalty is provided elsewhere in this code for a specific violation, a municipal infraction is a civil offense punishable as provided in the following schedule of civil penalties:

**Schedule of Civil Penalties**

First offense	\$750.00 plus surcharge and court costs
Second and subsequent offense(s) (each)	1,000.00 plus surcharge and court costs

(c)

Each day that a municipal infraction occurs and/or is permitted to exist constitutes a separate offense.

(d)

Seeking a civil penalty as authorized in this chapter does not preclude the city from seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

(5)

The manner, location and time in which the penalty may be paid;

(6)

The time and place of court appearance; and

(7)

A statement of the penalty for failure to appear in court.

(Ord. 4749 § 1 (part), 1987).

8.02.020 - Misdemeanor—Penalty.

Any person or persons convicted of a misdemeanor under any ordinance of the city of Council Bluffs where no punishment is specifically provided, shall be punished by a fine not to exceed five hundred dollars (\$500.00), or imprisonment not to exceed thirty (30) days.

(Ord. 5608 § 2, 2001).

[A] 111.4 **Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.

- ◆ The local jurisdiction is to designate the fine that is to apply to any person who continues work that is at issue, other than abatement work. The dollar amounts for the minimum and maximum fines are to be specified in the adopting ordinance. A sample adoption ordinance is on page xxi of the code.

## SECTION 112 SERVICE UTILITIES

[A] 112.1 **Authority to disconnect service utilities.** The *fire code official* shall have the authority to authorize disconnection of utility service to the building, structure or system in order to safely execute emergency operations or to eliminate an immediate hazard. The *fire code official* shall notify the serving utility and, where possible, the *owner* or the owner's authorized agent and the occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection, then the *owner*, the owner's authorized agent or occupant of the building, structure or service system shall be notified in writing as soon as practical thereafter.

- ◆ This section authorizes the fire code official to order the disconnection of building utilities that interfere with emergency operations or contribute to a public safety hazard. This section also provides that such an action must be preceded by written notice to the utility and the owner or owner's authorized agent and occupants of the building. When the hazard to the public health, safety or welfare is so imminent as to mandate immediate disconnection, this section makes it clear that the fire code official has the authority and even the obligation to cause disconnection without notice.

## SECTION 113 FEES

[A] 113.1 **Fees.** A permit shall not be issued until the fees have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

- ◆ The code anticipates that jurisdictions will establish their own fee schedules. It is the intent that the fees collected by the department for permit issuance, plan review and inspection be adequate to cover the costs to the department in these areas. If the department has additional duties, then its budget will need to be supplemented from the general fund. This section requires that all fees be paid prior to permit issuance or release of an amendment to a permit. Since department operations are intended to be supported by fees paid by the user of department activities, it is

important that these fees are received before incurring any expense. This philosophy has resulted in some departments having fees paid prior to the performance of two areas of work: plan review and inspection.

[A] 113.2 **Schedule of permit fees.** A fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority.

- ◆ The jurisdiction is responsible for promulgating a schedule of fees to be charged for operational or construction permits. Permit fees should be established by law, such as in an ordinance adopting the code, a separate ordinance or a legally promulgated regulation, as required by state or local law. Fee schedules for operational permits should be based on an analysis of the amount of time and resources to be expended by the jurisdiction in administering the permit. Fee schedules for construction permits are often based on a valuation of the work to be performed. This concept is based on the proposition that the valuation of a project is related to the amount of work to be expended in plan review, inspections and administering the permit, plus an excess to cover the department overhead.

[A] 113.3 **Work commencing before permit issuance.** A person who commences any work, activity or operation regulated by this code before obtaining the necessary permits shall be subject to an additional fee established by the applicable governing authority, which shall be in addition to the required permit fees.

- ◆ The fire code official will incur certain costs (i.e., inspection time and administrative) when investigating and citing a person who has commenced work, activity or operation without having obtained a permit. The fire code official is, therefore, entitled to recover these costs by establishing a fee, in addition to that collected when the required permit is issued, to be imposed on the responsible party. Note that this is not a penalty, as described in Section 109.4, for which the person can also be liable.

[A] 113.4 **Related fees.** The payment of the fee for the construction, alteration, removal or demolition of work done in connection to or concurrently with the work or activity authorized by a permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

- ◆ The fees for a permit may be in addition to other fees required by the jurisdiction or others for related items, such as sewer connections, water service taps, drive-ways and signs and others. It cannot be construed that the fire code permit fee includes these other items.

[A] 113.5 **Refunds.** The applicable governing authority is authorized to establish a refund policy.

- ◆ This section allows for a refund of fees, which may be full or partial, typically resulting from the revocation, abandonment or discontinuance of a project or oper-

# SECTION 307.4.3

## GENERAL REQUIREMENTS

mote the growth of fuels that produce less heat and burn slower, improve the habitat for wildlife and vegetation, control nuisance pests, and improve access for replanting and other recreational activities. The ability for a fire agency to utilize prescribed burning operations in a season when the fire can be more easily controlled reduces the personnel and resources needed to control a wildland fire when it occurs, and increases the likelihood that fewer structures and lives will be lost to wildland fire.

**307.2 Permit required.** A permit shall be obtained from the *fire code official* in accordance with Section 105.6 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the *owner* of the land upon which the fire is to be kindled.

◆ This section defines a rather narrow range of purposes for which permits will be issued. Section 105.6.30 covers open-burning permits in general. This section restricts permissible fires to those used for silviculture (the cultivation of forests and shade trees); range or wildlife management; pest control; and bonfires as defined in the code. This section further restricts the permitting process to owners of the land on which the fire is to be kindled (see commentary, Section 301.2).

**307.2.1 Authorization.** Where required by state or local law or regulations, *open burning* shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.

◆ This section requires permit applicants to comply with state and local regulations covering air and water quality as well as safety regulations established by the jurisdiction having authority.

**307.3 Extinguishment authority.** Where open burning creates or adds to a hazardous situation, or a required permit for open burning has not been obtained, the *fire code official* is authorized to order the extinguishment of the open burning operation.

◆ When the fire code official finds that open burning creates a hazardous condition such as the potential for igniting exposures or is unsafe because of atmospheric conditions, this section establishes the authority of the fire code official to order that the open burning fire be extinguished. Note that the fire department is not included in the extinguishment scenario but, rather, the section relies on the provisions of Section 109.3.2, which establishes who must comply with the extinguishment order, i.e., "...the owner, operator, occupant or other person responsible for the condition or violation...." This enhances public safety by not requiring the commitment of a piece of fire apparatus to extinguish an open-burning fire that is not an emergency (see commentary, Section 109.3.2).

**307.4 Location.** The location for *open burning* shall be not less than 50 feet (15 240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15 240 mm) of any structure.

### Exceptions:

1. Fires in *approved* containers that are not less than 15 feet (4572 mm) from a structure.
  2. The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.
- ◆ The 50-foot (15 240 mm) restriction applies to large fires in large open areas, such as those defined in Section 307.2. Exception 1 refers to fires that generally would be considerably smaller or would be controlled by the container in which they burn, presenting a reduced exposure risk to nearby buildings. Exception 2 allows a reduction in clearance from buildings based on the lesser hazard of fires that are limited in size.

**307.4.1 Bonfires.** A bonfire shall not be conducted within 50 feet (15 240 mm) of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions that could cause a fire to spread within 50 feet (15 240 mm) of a structure shall be eliminated prior to ignition.

◆ Bonfires usually are large and associated with some kind of planned event (for example, a school pep rally, holiday celebration or camp celebration). This section restricts the location of these large fires to open areas in which sparks and burning embers would be unlikely to endanger structures and smoke would not be a significant hazard to public health. Allowing a bonfire in a barbecue pit automatically restricts the size of the fire to the fuel load that can be contained within the noncombustible fire pit.

**307.4.2 Recreational fires.** *Recreational fires* shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions that could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.

◆ Recreational fires are usually fairly small, but can still represent a significant fire hazard if the area in which they are kindled is not kept free of combustible trash and debris. Basic fire safety practices followed by campers make good guidelines. No fire should ever be kindled in a location where it would endanger structures or would be likely to ignite combustible materials close by.

**307.4.3 Portable outdoor fireplaces.** Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.

**Exception:** Portable outdoor fireplaces used at one- and two-family dwellings.

◆ Portable outdoor fireplaces (also known as patio fireplaces) designed to burn solid fuel are available at

2. Cutting and welding operations in accordance with Chapter 35.
3. Torches or flame-producing devices in accordance with Section 308.4.
4. Candles and open-flame decorative devices in accordance with Section 308.3.

This section prohibits the use of portable devices in situations where they might be placed on unstable platforms or where they could be knocked over by human contact. The exceptions list the types of open-flame or heat-producing operations not regulated by this section but regulated elsewhere in the code.

**308.1.6.3 Sky lanterns.** A person shall not release or cause to be released an untethered sky lantern.

Sky lanterns, variously known as Kongming lanterns, Chinese lanterns, fire balloons or fire parachutes, are typically made of paper and contain an open flame used to heat the air inside the device to make it airborne, similar to but on a much smaller scale than a hot air balloon. Once airborne, if these devices are untethered and their movement is thus unrestricted, they are subject to winds and other atmospheric conditions such that the location of the final landfall is completely unknown and uncontrolled by the user. Obviously, uncontrolled open flame devices descending out of the sky have a significant potential to start fires and structure fires.

**308.1.7 Religious ceremonies.** When, in the opinion of the code official, adequate safeguards have been taken, participants in religious ceremonies are allowed to carry hand-held candles. Hand-held candles shall not be passed from one person to another while lighted.

This section has a very narrow application. As stated, only religious ceremonies are covered and the judgment of the fire code official is required for final approval. Prohibiting the passing of lighted candles from person to person is intended to minimize the opportunities for the candles to be dropped where they could become an ignition source for flammable or combustible materials or come into contact with clothing or hair. Spiritual significance may be attached to the use of candles in places of worship; therefore, the local fire code official should work closely with religious groups when enforcing this section.

**308.1.7.1 Aisles and exits.** Candles shall be prohibited in areas where occupants stand, or in an aisle or exit.

This prohibition is intended to prevent accidents caused by lighted candles being knocked from their holders onto combustible furniture, carpeting or decorative materials. Candles are commonly found at seasonal religious observances where attendance often exceeds the norm. In case of an emergency, people must be able to move through the aisles toward the

exits without risking the ignition of clothing, hair or decorations.

**308.1.8 Flaming food and beverage preparation.** The preparation of flaming foods or beverages in places of assembly and drinking or dining establishments shall be in accordance with Sections 308.1.8.1 through 308.1.8.5.

❖ The regulations in this section of the code are necessary to give the fire code official guidance in allowing the preparation of flaming food and beverages to be conducted in restaurants in a safe manner. These types of foods, sometimes referred to as "flambé foods," are prepared by adding a small amount of flammable or combustible liquid in the form of alcoholic beverages to the food and igniting it. Many restaurants prepare popular selected dishes, such as cherries jubilee, brandied peaches and flaming bananas, in this manner, usually tableside within close proximity of the customers. The proximity plus the intentional ignition of flammable liquids in a Group A occupancy make regulation of this process appropriate. Note that the regulations in this section are not intended to address a fuel source, such as Sterno, used to keep food warm.

**308.1.8.1 Dispensing.** Flammable or combustible liquids used in the preparation of flaming foods or beverages shall be dispensed from one of the following:

1. A 1-ounce (29.6 ml) container.
2. A container not exceeding 1-quart (946.5 ml) capacity with a controlled pouring device that will limit the flow to a 1-ounce (29.6 ml) serving.

❖ These dispensing provisions limit the amount of flammable or combustible liquid being transported around the restaurant for use in flaming food or beverage preparation in order to minimize the fuel potential in a fire incident involving such operations. Item 1 could be referring to a typical shot glass. Item 2 could be referring to a "jigger-pourer," which is a device that fits into the neck of a bottle and is intended to limit the per-pour quantity to 1 ounce.

**308.1.8.2 Containers not in use.** Containers shall be secured to prevent spillage when not in use.

❖ Securing the containers used in flaming food or beverage preparation while not in use reduces the likelihood of an accidental spill.

**308.1.8.3 Serving of flaming food.** The serving of flaming foods or beverages shall be done in a safe manner and shall not create high flames. The pouring, ladling or spooning of liquids is restricted to a maximum height of 8 inches (203 mm) above the receiving receptacle.

❖ Limiting the height from which flammable or combustible liquids are poured reduces the likelihood of a spill or overpour that might miss the target dish and be ignited by a table candle, smoking materials or another ignition source.



fixed systems capable of providing the required fire

good water supply consists of an adequate source of water, distribution system and proper pressure for delivery. If the water source is not reliable, it should be considered as an acceptable water supply.

**507.2.1 Private fire service mains.** Private fire service mains appurtenances shall be installed in accordance with NFPA 24.

Private fire service mains are often installed on private property where facilities are located well away from municipal water distribution systems. Private fire hydrants may not be installed on mains less than 6 inches (152 mm) in diameter (see Section 5.2.1 of NFPA 24). Where installed, private fire service mains, private hydrants, control valves, hose houses and related equipment must be installed and maintained in accordance with NFPA 24. Private (yard) hydrants may be tested, painted and marked in accordance with NFPA 291 where approved by the fire code official and the fire department.

**507.2.2 Water tanks.** Water tanks for private fire protection shall be installed in accordance with NFPA 22.

Water tanks for private fire protection may be required where municipal water systems do not exist or are incapable of supplying sprinkler or standpipe demand, or where Section 403.2 of the IBC or Section 903.3.5.2 of the code requires a secondary water supply for high-rise buildings in Seismic Design Category C, D, E or F. NFPA 22 and Section 1509.3 of the IBC govern the installation of water tanks on buildings. Pressure tanks must bear the label of an approved agency and be installed in accordance with the manufacturer's instructions.

**507.2.3 Fire flow.** Fire flow requirements for buildings or portions of buildings and facilities shall be determined by an approved method.

Appendix B of the code, which sets forth minimum fire flow requirements for one- and two-family dwellings and commercial buildings, offers one method for determining fire flow and its duration that could be approved by the fire code official. In areas that do not have a water supply, such as rural areas with no conventional water storage and distribution system, the jurisdiction may choose to utilize the methods contained in NFPA 1142, *Standard on Water Supplies for Suburban and Rural Firefighting*, the *International Wildland-Urban Interface Code*® (IWUIC®), or the Insurance Services Office's *Guide for Determination of Needed Fire Flow*. Appendix Table B105.1 bases fire flow on the type of construction and the square footage of the fire flow calculation area. All calculations in the table are based on a 20-pounds-per-square-inch (psi) (138 kPa) residual pressure. Note that the provisions of Section B103 provide for increases, reductions and specific alternative methods for determining flows. In addition to Section

B103, Sections 104.8 and 104.9 also provide the fire code official with authority concerning modifications and alternative methods. See the commentary to Appendix B for discussion of the fire flow requirements. It is important to note that the appendices are not considered part of the code unless specifically adopted (see Section 1 of the sample adopting ordinance on page xxi of the code).

**507.4 Water supply test.** The fire code official shall be notified prior to the water supply test. Water supply tests shall be witnessed by the fire code official or approved documentation of the test shall be provided to the fire code official prior to final approval of the water supply system.

❖ Whatever type of water supply is proposed in order to comply with Section 507.1, it must be tested in a manner that will verify it is capable of providing the required fire flow. The water supply system must be tested and the contractor is required to notify the fire code official prior to performing the test on the system. The fire code official will make the final approval by either witnessing the test or accepting the certification documentation. NFPA 291 contains recommended test methodology.

If the water supply system includes private fire service mains, NFPA 24, referenced in Section 507.2.1, contains the testing requirements for private fire service mains, as well as a test certificate form. It should be noted that the test certificate form has signature blocks only for the building owner's representative and the installing contractor's representative. There is no place on the form for the fire code official's signature, nor should he or she expose him or herself to liability of any kind for the installation by signing the form.

**507.5 Fire hydrant systems.** Fire hydrant systems shall comply with Sections 507.5.1 through 507.5.6.

❖ When fire hydrant systems are part of the approved water supply, the system must comply with this section.

**507.5.1 Where required.** Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet (122 m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.

#### Exceptions:

1. For Group R-3 and Group U occupancies, the distance requirement shall be 600 feet (183 m).
  2. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance requirement shall be 600 feet (183 m).
- ❖ The intent of this section is that not more than 400 feet (122 m) of hose will have to be laid out to reach all portions of the exterior grade level of the building.



## FIRE SERVICE FEATURES

Each hydrant must be accessible to fire apparatus and the 400-foot (122 m) distance should be measured from the hydrant(s) to all portions of the exterior at ground level [see Commentary Figure 507.5.1(1)]. When on-site hydrants and mains are required to achieve compliance with the distance requirement, this section gives the fire code official the authority to determine and approve hydrant locations on the site.

This paragraph is not intended to prevent development in rural areas where fire hydrants are not available, as long as the fire code official has approved an alternative water supply. The alternative water supply could be a fire department water tanker or a static, all-weather water supply that is approved by the fire code official.

In recognition of the smaller relative size and fire hazard characteristics of one- and two-family dwellings and utility buildings, Exception 1 increases the 400-foot (122 m) distance to 600 feet (183 m) [see Commentary Figure 507.5.1(2)]. Note that the one- and two-family dwellings classified in Group R-3 are those that are not within the scope of the IRC. See Section 102.5.

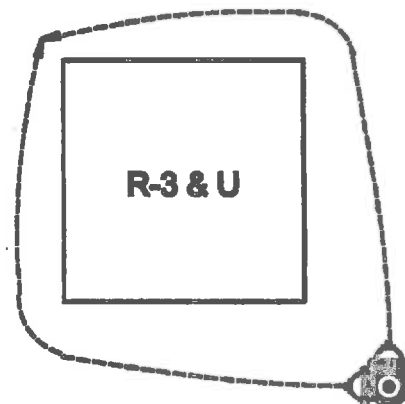
In recognition of the proven efficiency of sprinklers in applying water directly on the seat of the fire for buildings equipped throughout with automatic sprinklers in accordance with NFPA 13 or NFPA 13R, as applicable, Exception 2 increases the 400-foot (122 m) distance to 600 feet (183 m) [see Commentary Figure 507.5.1(3)].

**507.5.1.1 Hydrant for standpipe systems.** Buildings equipped with a standpipe system installed in accordance

with Section 905 shall have a fire hydrant within 480 mm) of the fire department connections.

**Exception:** The distance shall be permitted to feet (30 480 mm) where *approved by the fire code official*.

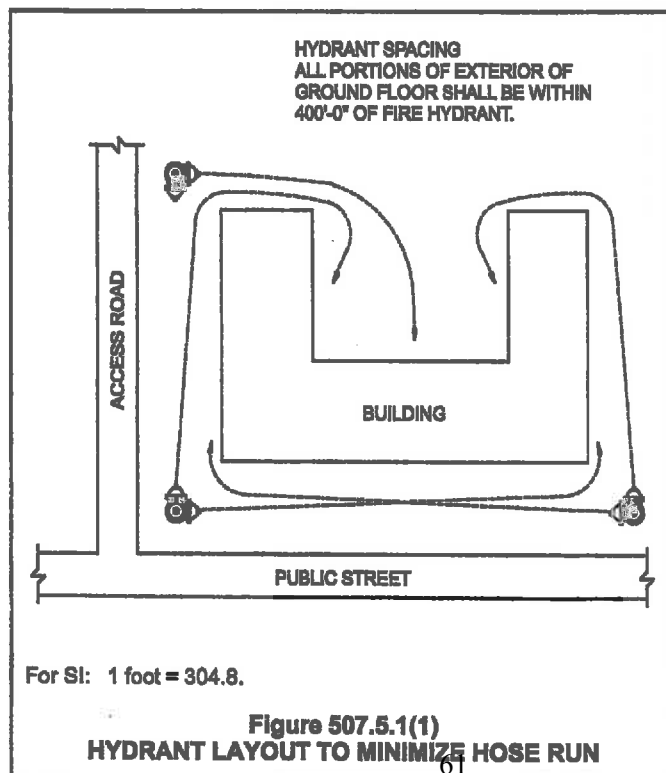
♦ This section provides correlation with NFPA 13, which requires that standpipe



**600'-0" FROM HYDRANT  
TO ALL PARTS OF THE  
GROUND FLOOR EXTERIOR**

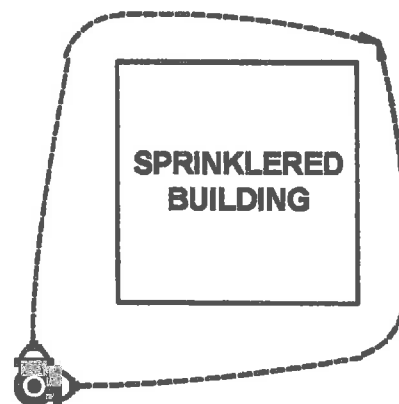
For SI: 1 foot = 304.8.

**Figure 507.5.1(2)  
HYDRANT LOCATION—GROUP R-3 AI**



For SI: 1 foot = 304.8.

**Figure 507.5.1(1)  
HYDRANT LAYOUT TO MINIMIZE HOSE RUN**



**600'-0" FROM HYDRANT  
TO ALL PARTS OF THE  
GROUND FLOOR EXTERIOR**

For SI: 1 foot = 304.8 mm.

**Figure 507.5.1(3)  
ACCEPTABLE HYDRANT  
LOCATION WITH SPRINKLERS**

building would not easily be noticed by occupants in another part of the building. Therefore, smoke detection is required in areas other than sleeping units and kitchens. Sleeping units are required by Section 907.2.10.3 to be equipped with single- and multiple station smoke alarms in accordance with Section 907.2.11.

Since Group R-4 occupancies may not be supervised by staff and to reduce the likelihood that a fire within a waiting area open to the corridor or the corridor itself could develop beyond the incipient stage, thereby jeopardizing the building egress, these areas must be equipped with automatic smoke detection.

Exception 1 allows smoke detectors to be eliminated from habitable spaces if the building is equipped throughout with an NFPA 13 automatic sprinkler system. The sprinkler system should control any fire and perform occupant notification through actuation of the water flow switch and subsequent activation of the building alarm notification appliances. A sprinkler system is required for all Group R occupancies in accordance with Section 903.2.8.

The exception provides that automatic fire detectors are not required in buildings that do not have interior corridors and in which sleeping units have a door opening directly to an exterior exit access that leads directly to the exits. The intent of the exception is that the exit access from the sleeping unit door be exterior and not require reentering the building prior to entering the exit. Since the exit access is outside, the need for detectors other than the smoke alarms required by Section 907.2.10.3 in sleeping units is greatly reduced.

**907.2.10.3 Smoke alarms.** Single- and multiple-station smoke alarms shall be installed in accordance with Section 907.2.11.

- ◆ The actual requirements for single- and multiple-station smoke alarms are located in Section 907.2.11. That section requires that the single- and multiple-station smoke alarms within sleeping units be connected to the emergency electrical system. Automatic activation of the fire alarm system is avoided to reduce unnecessary alarms within such buildings.

**907.2.11 Single- and multiple-station smoke alarms.** Listed single- and multiple-station smoke alarms complying with UL 217 shall be installed in accordance with Sections 907.2.11.1 through 907.2.11.6 and NFPA 72.

- ◆ Single- and multiple-station smoke alarms have evolved as one of the most important fire safety features in residential and similar occupancies having sleeping occupants. The value of early fire warning in these occupancies has been repeatedly demonstrated in fires involving both successful and unsuccessful smoke alarm performance.

For successful smoke alarm operation and performance, single- and multiple-station smoke alarms must be listed in accordance with UL 217 and installed to comply with the code and Chapter 11 of NFPA 72, which contains the minimum requirements

for the selection, installation, operation and maintenance of fire warning equipment for use in family living units. These devices are called "smoke alarms" rather than "smoke detectors" because they are independent of a fire alarm system and include an integral alarm notification device.

**907.2.11.1 Group R-1.** Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

1. In sleeping areas.
2. In every room in the path of the *means of egress* from the sleeping area to the door leading from the *sleeping unit*.
3. In each story within the *sleeping unit*, including *basements*. For *sleeping units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

- ◆ Because the occupants of a sleeping unit or suite may be asleep and unaware of a fire developing in the room or in the egress path, single- or multiple-station smoke alarms must be provided in the sleeping unit and in any intervening room between the sleeping unit and the exit access door from the room. If the sleeping unit or suite involves more than one level, a smoke alarm must also be installed on every level. See the commentary to Section 202 definition of "Sleeping unit."

Smoke alarms are required in split-level arrangements, except those that meet the conditions described in Item 3. In accordance with Section 907.2.11.5, all smoke alarms within a sleeping unit or suite must be interconnected so that actuation of one alarm will actuate the alarms in all smoke alarms within the sleeping unit or suite.

**907.2.11.2 Groups R-2, R-3, R-4 and I-1.** Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of *occupant load* at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a *dwelling unit*, including *basements* but not including crawl spaces and uninhabitable attics. In *dwelling units* or *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

- ◆ Because the occupants of a dwelling unit may be asleep and unaware of a fire developing in the room or in an area within the dwelling unit that will affect their ability to escape, single- or multiple-station smoke alarms must be installed in every bedroom, in the vicinity of all bedrooms (e.g., hallways leading to

the bedrooms) and on each story of the dwelling unit (see Commentary Figure 907.2.11.2 and the commentary to Section 202 for the definition of "Dwelling unit").

If a sprinkler system was installed throughout the building in accordance with NFPA 13, 13R or 13D, if applicable, smoke alarms would still be required in the bedrooms even if residential sprinklers were used.

Smoke alarms are required in split-level arrangements. As required by Section 907.2.11.5, all smoke alarms within a dwelling unit must be interconnected so that actuation of one alarm will actuate the alarms in all detectors within the dwelling unit.

These provisions do not apply to one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress that are regulated by the IRC. The IRC is intended to be a stand-alone document but if the residential units do not fall within the scope of the IRC or for other reasons are intended to be subject to this code, then the requirements of this section would apply. IFC Committee Interpretation No. 42-03 addresses this condition and contains additional explanatory information about the IRC and its relationship to the other *International Codes*.

Although the occupants of a sleeping unit in a Group I-1 occupancy may be asleep, they are still considered capable of self-preservation. Regardless, smoke alarms are required in sleeping units. The exception allows single- or multiple-station smoke alarms to be eliminated in the room if an automatic fire detection system that includes in-room system smoke detectors is installed as required by Section 907.2.6.

**907.2.11.3 Installation near cooking appliances.** Smoke alarms shall not be installed in the following locations unless

this would prevent placement of a smoke alarm in a location required by Section 907.2.11.1 or 907.2.11.2:

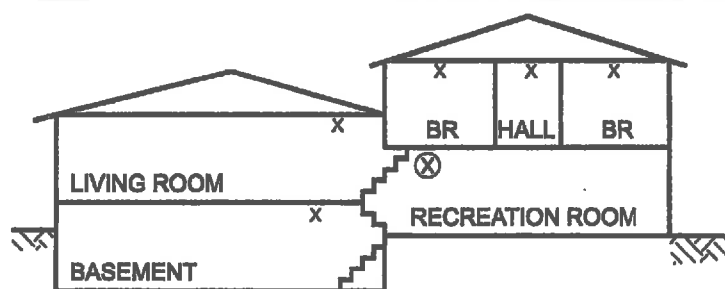
1. Ionization smoke alarms shall not be installed less than 20 feet (6096 mm) horizontally from a permanently installed cooking appliance.
2. Ionization smoke alarms with an alarm-silencing switch shall not be installed less than 10 feet (3048 mm) horizontally from a permanently installed cooking appliance.
3. Photoelectric smoke alarms shall not be installed less than 6 feet (1829 mm) horizontally from a permanently installed cooking appliance.

❖ This requirement is intended to reduce nuisance alarms attributed to locating smoke alarms in close proximity to cooking appliances and bathrooms in which steam is produced. These provisions are based on the findings in the Task Group Report "Minimum Performance Requirements for Smoke Alarm Detection Technology," February 22, 2008, and are consistent with similar requirements included in Section 29.8.3.4 of NFPA 72.

**907.2.11.4 Installation near bathrooms.** Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 907.2.11.1 or 907.2.11.2.

❖ See the commentary for Section 907.2.11.3. Sections 907.2.11.3 and 907.2.11.4 are provided to reduce nuisance alarms.

**907.2.11.5 Interconnection.** Where more than one smoke alarm is required to be installed within an individual *dwelling unit* or *sleeping unit* in Group R or I-1 occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are



"X" INDICATES SMOKE ALARM

⊗ INDICATES SMOKE ALARM IS OPTIONAL IF DOOR IS NOT PROVIDED BETWEEN LIVING AND RECREATION ROOMS (ITEM 3)

Figure 907.2.11.2  
LOCATION OF SMOKE ALARMS IN A DWELLING UNIT

**2304.2.4 Obstructions to view.** Dispensing devices shall be in clear view of the attendant at all times. Obstructions shall not be placed between the dispensing area and the attendant.

- ◆ This provision does not specify a distance the attendant must be from the dispensing operation; however, the attendant must be able to clearly view the entire dispensing area from his or her workstation. In some cases, this is accomplished by closed-circuit television monitoring; however, the fire code official should carefully evaluate the clarity and resolution of the video image to verify that it meets the "clear view" requirement of this section. This section also prohibits the common practice of loading outside areas, including the dispenser islands, with displayed merchandise piled high enough so as to be a visual obstruction to the attendant.

**2304.2.5 Communications.** The attendant shall be able to communicate with persons in the dispensing area at all times. An *approved* method of communicating with the fire department shall be provided for the attendant.

- ◆ This is a two-part requirement. The first part requires that the attendant has the ability to communicate, for example, via intercom, with the person performing the dispensing. The second part requires the attendant to have some type of communication equipment that will allow him or her to immediately call the fire department in case of an emergency.

**2304.3 Unattended self-service motor fuel-dispensing facilities.** Unattended self-service motor fuel-dispensing facilities shall comply with Sections 2304.3.1 through 2304.3.7.

- ◆ An unattended self-service motor fuel-dispensing facility is allowed only with the specific approval of the fire code official. He or she should consider the location; exposures; the likelihood of vandalism; and how emergency equipment such as the emergency shut-off switch, portable fire extinguishers and the means of notifying the fire department in case of spill, fire or other emergency is going to be protected.

**2304.3.1 General.** Where *approved*, unattended self-service motor fuel-dispensing facilities are allowed. As a condition of approval, the *owner* or operator shall provide, and be accountable for, daily site visits, regular equipment inspection and maintenance.

- ◆ It is imperative that the owner/operator designates a responsible person to make daily site visits to the unattended self-service motor fuel-dispensing facility. All emergency equipment must be inspected for proper operation and availability to the customer. Vandalism is a major problem with unattended, self-service motor fuel-dispensing facilities. Vandals will trip the emergency fuel shutoff switch, and remove or discharge the fire-extinguishing equipment. This equipment must be maintained and made available to the person dispensing fuel. Also, a method of documenting the daily visits needs to be established and approved by the fire code official.

**2304.3.2 Dispensers.** Dispensing devices shall comply with Section 2306.7. Dispensing devices operated by the insertion of coins or currency shall not be used unless *approved*.

- ◆ The intent of this provision is to allow card or key-operated-type dispensers. Coin- or currency-type dispensers are allowed only with the approval of the fire code official.

**2304.3.3 Emergency controls.** *Approved* emergency controls shall be provided in accordance with Section 2303.2. Emergency controls shall be of a type that is only manually resettable.

- ◆ The emergency controls must be clearly identified and available to the person dispensing fuel. The controls or switch must be located no closer than 20 feet (6096 mm) to the dispenser and no farther than 100 feet (30 480 mm) from the dispenser. The switch must cut off power to all dispensers and pumps and must be manually resettable by the owner/operator. The intent is to prevent anyone from dispensing fuel until the problem has been corrected.

**2304.3.4 Operating instructions.** Dispenser operating instructions shall be conspicuously posted in *approved* locations on every dispenser and shall indicate the location of the emergency controls required by Section 2304.3.3.

- ◆ It is a special requirement for unattended self-service motor fuel-dispensing facilities that the location of the emergency control switch be included with the dispenser instructions and posted on the dispenser in an approved location.

**2304.3.5 Emergency procedures.** An *approved* emergency procedures sign, in addition to the signs required by Section 2305.6, shall be posted in a conspicuous location and shall read:

IN CASE OF FIRE, SPILL OR RELEASE

1. USE EMERGENCY PUMP SHUTOFF

2. REPORT THE ACCIDENT!

FIRE DEPARTMENT TELEPHONE NO. \_\_\_\_\_

FACILITY ADDRESS \_\_\_\_\_

- ◆ Signs must be clearly posted giving the location of the emergency fuel shutoff switch, the fire department's telephone number and the motor fuel-dispensing facility address.

It is imperative that the person dispensing fuel at an unattended motor fuel-dispensing facility knows where the emergency control equipment is located. People not familiar with the area may not know the fire department's telephone number or the address of the motor fuel-dispensing facility; therefore, this information must be included on the sign.

**2304.3.6 Communications.** A telephone not requiring a coin to operate or other *approved*, clearly identified means to notify the fire department shall be provided on the site in a location *approved* by the fire code official.

- ◆ The intent of this section is to provide a means to call the fire department in an emergency without the use

## MOTOR FUEL-DISPENSING FACILITIES AND REPAIR GARAGES

of a coin or phone card. Many jurisdictions with 911 telephone systems have pay phones that do not require the use of a coin or card to dial 911; this type of coin-operated telephone would be allowed.

**2304.3.7 Quantity limits.** Dispensing equipment used at unsupervised locations shall comply with one of the following:

1. Dispensing devices shall be programmed or set to limit uninterrupted fuel delivery to 25 gallons (95 L) and require a manual action to resume delivery.
  2. The amount of fuel being dispensed shall be limited in quantity by a preprogrammed card as *approved*.
- ❖ Limiting the amount of uninterrupted fuel delivered before another action is taken reduces the chances of a major fuel spill in the case of vandalism or equipment failure.

**2304.4 Dispensing into portable containers.** The dispensing of flammable or *combustible liquids* into portable *approved* containers shall comply with Sections 2304.4.1 through 2304.4.3.

❖ This section describes an approved container and states requirements for dispensing fuel into an approved container.

**2304.4.1 Approved containers required.** Class I, II and IIIA liquids shall not be dispensed into a portable container unless such container does not exceed a 6-gallon (22.7 L) capacity, is *listed* or of *approved* material and construction, and has a tight closure with a screwed or spring-loaded cover so designed that the contents can be dispensed without spilling. Liquids shall not be dispensed into portable or cargo tanks.

❖ Approved containers must be easily identified as fuel containers and constructed of materials that will maintain structural stability and resist spills. Flammable and combustible liquids should not be dispensed into portable or cargo tanks using conventional automotive dispensing equipment. If the tank is not properly grounded and the dispenser nozzle is not in contact with the tank, static electricity may build up and discharge between the nozzle and the tank. Note that this section is also intended to prohibit filling of a new class of portable gasoline containers that have entered the marketplace. These cans, some of which hold as much as 14 gallons (53 L) and weigh over 100 pounds (45 kg) when full, often include integrated hoses and dispensing nozzles, yet they do not comply with any Underwriters Laboratories (UL), American Society for Testing and Materials (ASTM) or similar recognized standard. Apparently, these cans are "certified" by the manufacturer as meeting United Nations/U.S. Department of Transportation (UN/DOT) standards for transportation, but it is questionable whether the safety standards required for transportation are adequate for storage and use of these products. For example, there are concerns about the ability of users to safely hoist these containers off of and onto vehicles to avoid static accumulation during filling, and the static charge will be greater than that

experienced with smaller cans because there is less fuel transferred during filling. Given that UL 1313 and ASTM F852 or ASTM F976 (the recognized standards for construction of portable gas containers) all limit container capacities to approximately 22.7 L, it makes sense for the code to reflect this limitation.

**2304.4.2 Nozzle operation.** A hose nozzle valve used for dispensing Class I liquids into a portable container shall comply with Section 2306.7.6 and be manually held during the dispensing operation.

❖ A listed automatic-closing-type nozzle must be used for dispensing fuel into portable containers. The open device must not be used because the automatic-closing feature may not function properly. It is designed to operate in the neck of an automotive fuel receiver. The fuel tank vent in an automotive receiver neck and the blow-by fuel coming from the vent is what normally triggers the automatic shutoff feature.

**2304.4.3 Location of containers being filled.** Portable containers shall not be filled while located inside the trunk, passenger compartment or truck bed of a vehicle.

❖ Portable fuel containers riding on carpets, in pickup truck bed liners can build up a charge of static electricity that could discharge to the dispenser nozzle if not properly grounded. In order to dissipate the static charge, the container must be removed from the vehicle and placed on the ground before fueling begins. The nozzle must be in contact with the container before discharging the fuel. See the commentary to Section 2305.6, Warnings 3 and additional discussion of static electricity.

## SECTION 2305 OPERATIONAL REQUIREMENTS

**2305.1 Tank filling operations for Class I, II or III liquids.** Delivery operations to tanks for Class I, II or III liquids shall comply with Sections 2305.1.1 through 2305.1.3 and applicable requirements of Chapter 57.

❖ History has shown that most accidents at motor fuel dispensing facilities occur during the tank-filling operation. The provisions of this section address these operations.

**2305.1.1 Delivery vehicle location.** Where liquid delivery to above-ground storage tanks is accomplished by positive pressure operation, tank vehicles shall be positioned not less than 25 feet (7620 mm) from tanks receiving Class I liquids and 15 feet (4572 mm) from tanks receiving Class II and III liquids.

❖ Above-ground tanks are usually above the level of the fuel delivery truck, and the fuel is pumped from the truck into the storage tank. Fuel is delivered in large volumes under pressure. Most delivery trucks use a power take-off pump that requires the truck engine to be running.



the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code, the *International Building Code* and relevant laws, ordinances, rules and regulations, as determined by the fire code official.

- ❖ Construction documents for fire alarm systems must be submitted for review to determine compliance with the code, the IBC and NFPA 72. All of the information required by this section may not be available during the design stage and initial permit process. Later submission of more detailed shop drawings may be required in accordance with Section 907.1.2. These provisions are intended to reflect the minimum scope of information needed to determine code compliance. When the work can be briefly described on the application form, the fire code official may utilize judgment in determining the need for more detailed documents.

**907.1.2 Fire alarm shop drawings.** Shop drawings for fire alarm systems shall be submitted for review and approval prior to system installation, and shall include, but not be limited to, all of the following where applicable to the system being installed:

1. A floor plan that indicates the use of all rooms.
  2. Locations of alarm-initiating devices.
  3. Locations of alarm notification appliances, including candela ratings for visible alarm notification appliances.
  4. Design minimum audibility level for occupant notification.
  5. Location of fire alarm control unit, transponders and notification power supplies.
  6. Annunciators.
  7. Power connection.
  8. Battery calculations.
  9. Conductor type and sizes.
  10. Voltage drop calculations.
  11. Manufacturers' data sheets indicating model numbers and listing information for equipment, devices and materials.
  12. Details of ceiling height and construction.
  13. The interface of fire safety control functions.
  14. Classification of the supervising station.
- ❖ Since the fire protection contractor(s) may not have been selected at the time a permit is issued for construction of a building, detailed shop drawings for fire alarm systems may not be available. Because they provide the information necessary to determine code compliance, as specified in this section, they must be submitted and approved by the fire code official before the contractor can begin installing the system.

**907.1.3 Equipment.** Systems and components shall be *listed* and *approved* for the purpose for which they are installed.

- ❖ The components of the fire alarm system must be approved for use in the planned system. NFPA 72 requires all devices, combinations of devices, appliances and equipment to be labeled for their proposed use. The testing agency will test the components for use in various types of systems and stipulate the use of the component on the label. Evidence of listing and labeling of the system components must be submitted with the shop drawings. In some instances, the entire system may be labeled.

At least one major testing agency, Underwriters Laboratories, Inc. (UL), has a program in which alarm installation and service companies are issued a certificate and become listed by the agency as being qualified to design, install and maintain local, auxiliary, remote station or proprietary fire alarm systems. The listed companies may then issue a certificate showing that the system is in compliance with Section 907. Terms of the company certification by UL include the company being responsible for keeping accurate system documentation, including as-built record drawings, acceptance test records and complete maintenance records on a given system. The company is also responsible for the required periodic inspection and testing of the system under contract with the owner. A similar program has been available for many years for central station alarm service, whereas the UL program is relatively new to the industry. Even though this company and system listing program is not required by the code or NFPA 72, it can be a valuable tool for the fire code official determining compliance with the referenced standard.

Another issue that must be considered is the compatibility of the system components as required by NFPA 72. The labeling of system components discussed above should include any compatibility restrictions for components. Compatibility is primarily an issue of the ability of smoke detectors and alarm control panels (FACPs) to function properly when interconnected and affects the two-wire type smoke detectors, which obtain their operating power over the same pair of wires used to transmit signal to the FACP (the control unit initiating device circuit). Laboratories will test for component compatibility either by actual testing or by reviewing the circuit parameters of both the detector and the FACP. Generally, if both the two-wire detector and the FACP are of the same brand, there should not be a compatibility problem. Nevertheless, the fire code official must be satisfied that the components are listed as being compatible. Failure to comply with the compatibility requirements of NFPA 72 can lead to system malfunction or failure when it may be needed the most.

## CHAPTER 56

# EXPLOSIVES AND FIREWORKS

### SECTION 5601 GENERAL

**5601.1 Scope.** The provisions of this chapter shall govern the possession, manufacture, storage, handling, sale and use of *explosives, explosive materials*, fireworks and small arms ammunition.

#### Exceptions:

1. The Armed Forces of the United States, Coast Guard or National Guard.
2. *Explosives* in forms prescribed by the official United States Pharmacopoeia.
3. The possession, storage and use of small arms ammunition where packaged in accordance with DOTn packaging requirements.
4. The possession, storage and use of not more than 1 pound (0.454 kg) of commercially manufactured sporting black powder, 20 pounds (9 kg) of smokeless powder and 10,000 small arms primers for hand loading of small arms ammunition for personal consumption.
5. The use of *explosive materials* by federal, state and local regulatory, law enforcement and fire agencies acting in their official capacities.
6. Special industrial *explosive* devices that in the aggregate contain less than 50 pounds (23 kg) of *explosive materials*.
7. The possession, storage and use of blank industrial-power load cartridges where packaged in accordance with DOTn packaging regulations.
8. Transportation in accordance with DOTn 49 CFR Parts 100–185.
9. Items preempted by federal regulations.

**5601.1.1 Explosive material standard.** In addition to the requirements of this chapter, NFPA 495 shall govern the manufacture, transportation, storage, sale, handling and use of *explosive materials*.

**5601.1.2 Explosive material terminals.** In addition to the requirements of this chapter, the operation of *explosive material* terminals shall conform to the provisions of NFPA 498.

**5601.1.3 Fireworks.** The possession, manufacture, storage, sale, handling and use of fireworks are prohibited.

#### Exceptions:

1. Storage and handling of fireworks as allowed in Section 5604.
2. Manufacture, assembly and testing of fireworks as allowed in Section 5605.

3. The use of fireworks for fireworks displays as allowed in Section 5608.

4. The possession, storage, sale, handling and use of specific types of Division 1.4G fireworks where allowed by applicable laws, ordinances and regulations, provided such fireworks and facilities comply with NFPA 1124, CPSC 16 CFR Parts 1500 and 1507, and DOTn 49 CFR Parts 100–185, for consumer fireworks.

**5601.1.4 Rocketry.** The storage, handling and use of model and high-power rockets shall comply with the requirements of NFPA 1122, NFPA 1125 and NFPA 1127.

**5601.1.5 Ammonium nitrate.** The storage and handling of ammonium nitrate shall comply with the requirements of NFPA 400 and Chapter 63.

**Exception:** Storage of ammonium nitrate in magazines with blasting agents shall comply with the requirements of NFPA 495.

**5601.2 Permit required.** Permits shall be required as set forth in Section 105.6 and regulated in accordance with this section.

**5601.2.1 Residential uses.** Persons shall not keep or store, nor shall any permit be issued to keep or store, any *explosives* at any place of habitation, or within 100 feet (30 480 mm) thereof.

**Exception:** Storage of smokeless propellant, black powder and small arms primers for personal use and not for resale in accordance with Section 5606.

**5601.2.2 Sale and retail display.** Persons shall not construct a retail display nor offer for sale *explosives, explosive materials* or fireworks upon highways, sidewalks, public property or in Group A or E occupancies.

**5601.2.3 Permit restrictions.** The *fire code official* is authorized to limit the quantity of *explosives, explosive materials* or fireworks permitted at a given location. Persons possessing a permit for storage of *explosives* at any place, shall not keep or store an amount greater than authorized in such permit. Only the kind of *explosive* specified in such a permit shall be kept or stored.

**5601.2.4 Financial responsibility.** Before a permit is issued, as required by Section 5601.2, the applicant shall file with the jurisdiction a corporate surety bond in the principal sum of \$100,000 or a public liability insurance policy for the same amount, for the purpose of the payment of all damages to persons or property that arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. The *fire code official* is authorized to specify a greater or lesser amount when, in his or her opinion, conditions at the location of use indicate a greater or lesser amount is required.

## ORDINANCE NO. 6299

An ordinance to amend Title 12 “Council Bluffs Fire Code” of the 2009 Municipal Code of Council Bluffs, Iowa, by repealing Chapter 12.01 “International Fire Code” and enacting a new Chapter 12.01 International Fire Code.”

Be it ordained by the City Council of the City of Council Bluffs, Iowa:

Section 1. That Chapter 12.01 entitled “international Fire Code” of the 2009 Municipal Code of Council Bluffs, Iowa, be and the same is hereby repealed.

Section 2. That Chapter 12.01 “International Fire Code” of the 2015 Municipal Code of Council Bluffs, Iowa, be and the same is hereby enacted to read as follows:

### Chapter 12.01, International Fire Code

Sections: 12.01.010 Adoption of the International Fire Code 2015 edition

12.01.020 Adoption of Appendix Chapters B, C, D

12.01.030 Section 105 amended

12.01.040 Section 108 amended

12.01.50 Section 109 amended

12.01.060 Section 111.4 amended

12.01.070 Section 307.4.3 amended

12.01.080 Section 308.1.6.3 amended

12.01.090 Section 507.5.1 added

12.01.100 Section 907.1.4 added

12.01.110 Section 907.2.11.2 amended

12.01.120 Section 2304.3.8 amended

12.01.130 NFPA adoption

12.01.140 NFPA 101 amended

**12.01.010 Adoption of International Fire Code, 2015 edition.** The 2015 edition of the International Fire Code, as published by the International Code Council, and on file in the office of the City Clerk of the City of Council Bluffs, Iowa, be and same is hereby adopted as the Fire Code of the City of Council Bluffs,



for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Council Bluffs, and providing for the issuance of permits for hazardous uses or operations. Each and all of the regulations provisions, conditions and terms of the International Fire Code, 2015 edition, are hereby referred to, adopted and made apart hereof as if fully set out in this ordinance.

**12.01.020 Adoption of Appendix Chapters B,C, and D** The following appendix chapters of the 2015 edition of the International Fire Code are hereby adopted and made a part hereof as if fully set out in this ordinance:

- 1) Appendix B – Fire Flow requirements for Buildings.
- 2) Appendix C – Fire Hydrant Locations and Distribution
- 3) Appendix D – Fire Apparatus Access Roads

**12.01.030 Section 105 amended.** Section 105.6 of the 2015 edition of the International Fire Code is amended by removing Section 105.6.1 through 105.6.48 and replacing it with the current Municipal Code 12.03.010, “Designated Activities requiring permits and fees.”

**12.01.040 Section 108 amended.** Section 108.1 of the 2015 edition of the International Fire Code is hereby repelled in its entirety, and a new Section 108.1 as outlined in the current Municipal Code 13.01.110 be adopted in its place.

**12.01.050 Section 109.4 amended.** Section 109.4 of the 2015 edition of the International Fire Code is hereby amended to read as follows:

109.4 Violation penalties. Persons found guilty of violating and provision of this code or who fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the code official, or of a permit or certificate used under provisions of this code, shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and instinct violation. At the discretion of the City Attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.

**12.01.060 Section 111.4 amended.** Section 111.4 of the 2015 International Fire Code is hereby amended to read as follows:

111.4 Failure to comply. Any person who shall continue work after having been served with a stop work order, except work as that person is directed to perform to remove a violation of unsafe condition, shall be liable to a fine of not less than fifty dollars or more than seven hundred fifty dollars.

**12.01.070 Section 307.4.3 amended.** Section 307.4.3 of the 2015 International Fire Code is hereby amended by deleting the exception: *Portable outdoor fireplaces used at one and two-family dwellings.*

**12.01.080 Section 308.1.6.3 amended.** Section 308.1.6.3 of the 2015 International Fire Code is hereby amended to read as follows:

308.1.6.3 A person shall not release or cause to be released any sky lanterns

**12.01.090 Section 507.5.1 amended.** Section 507.5.1 of the 2015 International Fire Code is hereby amended to read as follows:

507.5.1 Where required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 300 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the Fire Code Official.

**12.01.100 Section 907.1.4 is added.** Section 907 of the 2015 International Fire Code is hereby amended to read as follows:

907.1.4 In all alarm system installation, there shall be installed an outside strobe at the door nearest the Fire Alarm panel and or annunciator panel as determined by the Fire Code Official.

**12.01.110 Section 907.2.11.2 is amended.** Section 907.2.11.2 of the 2015 International Fire Code is hereby amended to read as follows:

907.2.11.2 Modify by adding the following 4<sup>th</sup> location requirement

4) Supervised smoke alarms shall be installed in all common corridors and at the top and bottom of all stairway enclosures in groups R-2, R-4 and I-1 occupancies. In corridors, detectors shall be located within fifteen (15) feet of the end of the corridor and in such a way that one detector is located for each thirty (30) feet of corridor length or spaced as allowed by the code.

**12.01.120 Section 2304.3.8 is added.** Section 2304.3 of the 2015 International Fire Code is hereby amended to read as follows:

2304.3.8 Unattended self service motor fuel dispensing facilities shall comply with Sections 2.304.3.1 through 2304.3.7 as well as the following. At each self service motor fuel dispensing station, a fixed fire extinguishing system shall be installed which is suitable for extinguishing flammable liquid fires, which system shall utilize an approved extinguishing agent and be capable of covering the entire Class 1 liquid dispensing area. Said system shall be capable of being activated either manually or automatically; however, if said system is to be activated manually, the triggering or activating device shall be capable of being activated or triggered from a location not more than one hundred (100) feet from the dispensers.

**12.01.130 Adoption of the current NFPA Pamphlets,** including Annex B of NFPA 96, “Mobile and Temporary Cooking Operations.”

**12.01.140 NFPA 101 amended.** NFPA 101, the most recently adopted edition, is hereby amended as follows:

Chapter 24 deleted.

**Section 3. Repealer.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repelled. This is Ordinance No.6299

**Section 4. Severability Clause.** If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

**Section 5. Effective Date.** This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

Passed and Approved July 10 2017

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Matt Walsh

Mayor

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Jodi Quakenbush

City Clerk

First Reading: 6-12-17

Second Reading: 6-26-17

Public Hearing: 6-26-17

Third Reading: 7-10-17

## Council Communication

Department: City Clerk  
Case/Project No.:  
Submitted by: Jon Finnegan

Resolution 17-144

Council Action: 7/10/2017

### Description

Resolution accepting settlement between the Iowa Insurance Division and Two Rivers Insurance Company.  
(Postponed from June 26, 2017)

### Background/Discussion

As you may recall, we advised you last August that the Iowa Insurance Division invited the mayor, chief of staff, and director of HR to a meeting in Des Moines regarding their investigation of Two Rivers Insurance. Since that time, they have settled the investigation with Two Rivers, and have sent us communication of the same.

Attached are the Insurance Division's letter to Mayor Walsh advising that they have settled their investigation, and the Order and Consent to Order that was filed in the matter.

As a summary, the parties have agreed to a settlement amount, and the insurance division has determined an allocation of the settlement to all of the parties in IGHCP. The portion allotted to the City of Council Bluffs is \$253,428.10, and the portion allotted to the Council Bluffs Public Library is \$8,201.95.

We have two options at this point in time; 1. accept our allotted portion of the restitution, and release Two Rivers Insurance from liability for any civil claims or penalties in connection with the conduct as described in the Order, or 2. not accept the restitution amount, and retain the right to pursue Two Rivers Insurance for any losses we may claim on our own.

It is our recommendation that we choose the first of those two options, accepting the restitution. The primary reasons for that recommendation are:

1. We paid the exact dollar amount Two Rivers advised us we would pay for the insurance coverage we received. They didn't necessarily break it out in detail the way the insurance division claims they should have, but we knew the amount we were paying, and 2. We saved almost \$1.5 Million the first year we signed on with them compared with the renewal we had from our previous provider, and we have been on the IGHCP insurance plan for 9 years. So, not only did we save that money year one and every year since, we believe it would be difficult to prove we had "losses," which is what would be required for us to prevail in any civil pursuit on our own.

### Recommendation

Approval of this resolution.

### ATTACHMENTS:

Description	Type	Upload Date
Letter to Mayor	Letter	6/16/2017
Order and Consent to Order	Other	6/16/2017
Resolution 17-144	Resolution	7/3/2017



# STATE OF IOWA

TERRY E. BRANSTAD  
GOVERNOR

DOUG OMMEN  
COMMISSIONER OF INSURANCE

KIM REYNOLDS  
LT. GOVERNOR

May 22, 2017

Matt Walsh  
209 Pearl St.  
Suite 104  
Council Bluffs, Iowa 51503  
[mayor@councilbluffs-ia.gov](mailto:mayor@councilbluffs-ia.gov)

**VIA CERTIFIED MAIL AND  
ELECTRONIC MAIL**

RE: *In the matter of Two Rivers Insurance Company*  
Case No. 82465

Dear Mayor Walsh,

The Iowa Insurance Division ("Division") has concluded its investigation into Two Rivers Insurance Company, Inc. ("Two Rivers") arising from their billing practices for the Iowa Governmental Health Care Plan ("IGHCP"). The Division and Two Rivers entered into a Consent Order ("Order") on May 22, 2017 after several months of negotiations. A copy of the Order is attached for your reference. The Order is a matter of public record and is published on the Division's website at <https://iid.iowa.gov/enforcement-orders-and-actions>.

The Division alleged that Two Rivers developed and charged fees and commissions that were not disclosed to the members of IGHCP. Specifically, Two Rivers listed an inflated "premium" amount on annual summaries and monthly billings which consisted of not only the Wellmark established premium (which already included a 1 or 1.5% commission) but also included undisclosed fees and commissions charged by Two Rivers. These undisclosed fees and commissions were in addition to the disclosed EBS billing and partial self-funding fees Two Rivers charged each member and listed on the billing statements.

The Division alleged that these acts are in violation of Iowa Code § 507B.3, which prohibits a person from engaging in unfair methods of competition, or unfair or deceptive acts or practices, and Iowa Code § 522B.11, which prohibits violations of any insurance law and using dishonest practices or demonstrating untrustworthiness in the conduct of business in this state. By presenting these fees and commissions as "premiums," the billing statements and rate summaries had the capacity to mislead the IGHCP members into believing that this amount was the insurer-established (Wellmark) premium, when it in fact included undisclosed compensation to Two Rivers.

### **Impact on Future Two Rivers Billing Practices**

As part of the Order, Two Rivers agreed to a cease and desist order that it will not engage in any of the following acts or practices related to IGHCP:

1. Adding Two Rivers' compensation to an insurer-established premium and representing such monetary amount as "premium" on rate summaries or on monthly billings.
2. Failing to separately disclose or itemize Two Rivers' fees or compensation apart from the insurer-established premium, to the extent they are included, on rate summaries or on monthly billings.

The Order does not prohibit Two Rivers from using an insurer-established premium to structure a partial-self funding plan, so long as the insurer-established premium, partial self-funding contributions, and any compensation apart from the insurer-established premium are disclosed as separate line items to the extent they are included on rate summaries and on monthly billings.

### Restitution

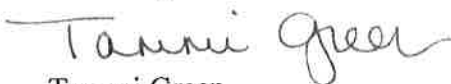
Two Rivers is required to pay a sum of \$1,314,029.10 to the state of Iowa as restitution to be distributed to past and current IGHCP members. Member specific restitution amounts were calculated by taking the total amount of undisclosed fees and commissions charged by Two Rivers to the specific member and reducing this number to allow for a percentage commission to Two Rivers. We then applied a uniform percentage to each member's specific undisclosed amount to arrive at individual restitution amounts for each member. City of Council Bluffs has been apportioned \$253,428.10 in restitution. Council Bluffs Public Library has been apportioned \$8,201.95 in restitution.

In order to receive restitution, **your entity must agree to and have the designated authorized representative for your city/school/county sign** the *Election to Participate and Release*, which is attached as Exhibit B to the Order. Should your entity elect to not sign the *Election to Participate and Release*, the funds allotted to your entity will be redistributed to the entities that do elect to participate. This means that the member specific restitution amount noted in the above paragraph could increase if not all members elect to participate. We ask that you carefully review the *Election to Participate and Release* and share it along with this letter with all required decision makers, such as a board of superintendents, Mayor, or county attorney, within your entity.

If your entity elects to participate, the signed and completed *Election to Participate and Release* must be sent to the attention of the undersigned and received by the Division **no later than 4:00 p.m. on August 20, 2017**. Please also advise, on separate correspondence, the name of the proper payee and mailing address for the restitution check that will be issued by the Division subsequent to the closing of the election period. As with the Order, your decision to participate or not participate will also be subject to public disclosure.

Please refer to the enclosed example *Election to Participate and Release* which may provide you with guidance in completing the form should your entity elect to participate. If you have any questions or concerns regarding the investigation, Order, or restitution process, please contact Tammi Green at 515.281.4005 or [tammi.green@iid.iowa.gov](mailto:tammi.green@iid.iowa.gov).

Sincerely,



Tammi Green  
Enforcement Bureau

**Enclosures:**

Final Consent Order

Blank *Election to Participate and Release*

Example *Election to Participate and Release*

**Copy to:**

Jon Finnegan

209 Pearl St.

Suite 301

Council Bluffs, IA 51503

[jfinnegan@councilbluffs-ia.gov](mailto:jfinnegan@councilbluffs-ia.gov)

Whitney Schultz

209 Pearl St.

Suite 104

Council Bluffs, IA 51503

[wschultz@councilbluffs-ia.gov](mailto:wschultz@councilbluffs-ia.gov)

Douglas Ommen

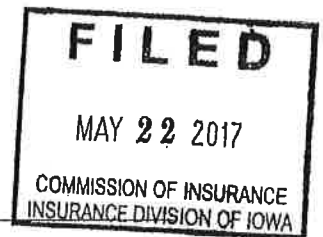
Iowa Insurance Commissioner

Johanna Nagel

Compliance Attorney for the Division

Jennifer Lindberg

Compliance Officer



BEFORE THE IOWA INSURANCE COMMISSIONER

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IN THE MATTER OF	)	Division File No. 82465
	)	
TWO RIVERS INSURANCE COMPANY, INC.	)	<b>ORDER AND</b>
NPN 3274643,	)	<b>CONSENT TO ORDER</b>
d/b/a Two Rivers Insurance Services,	)	
and Employee Benefit Systems;	)	
	)	
Respondent.	)	

---

**NOW THEREFORE**, upon motion of the Iowa Insurance Division (“Division”) and consent of Respondent Two Rivers Insurance Company, Inc., pursuant to the provisions of Iowa Code Chapter 507B—Insurance Trade Practices and Iowa Code Chapter 522B—Licensing of Insurance Producers, the Commissioner enters the following consent order (“Order”):

**I. PARTIES AND JURISDICTION**

1. The Commissioner of Insurance, Doug Ommen, administers Iowa Code Chapter 507B—Insurance Trade Practices and Iowa Code Chapter 522B—Licensing of Insurance Producers pursuant to Iowa Code § 505.8. The Commissioner has designated staff in the Iowa Insurance Division to seek enforcement of these provisions. The Division has consented to the entry of this Order.
2. Two Rivers Insurance Company, Inc. (“Two Rivers”) is an Iowa corporation with a home office of 214 N. Main Street, Burlington, Iowa 52601. Two Rivers does business under several fictitious names, including, but not limited to “Two Rivers Insurance Services” and “Employee Benefit Systems.” Two Rivers has filed fictitious name registrations with the Iowa Secretary of State to do business under these names.



3. Two Rivers d/b/a Two Rivers Insurance Services is and has been licensed as a business entity insurance producer with the Division since October 29, 2010. Two Rivers is licensed under national producer number 3274643.
4. Two Rivers d/b/a Employee Benefit Systems is and has been licensed as a third party administrator with the Division since January 21, 2000.
5. The Commissioner of Insurance has jurisdiction over Two Rivers and this matter.
6. The Division has alleged that from January 1, 2005 to on or about May 1, 2014 (“2005 through 2014”), Two Rivers and others engaged in acts or practices constituting cause for probation, suspension, revocation, fines, orders requiring such persons to cease and desist from the acts, methods or practices, or other relief under Iowa Code §§ 505.8(10), 507B.3, 507B.4, 507B.6, 507B.7, 522B.11 and 522B.17 and rules adopted pursuant to Iowa Code Chapters 505, 507B and 522B.
7. Two Rivers is aware of its right to notice and a hearing on this matter, the right to be represented by counsel at a hearing, the right to present evidence and examine witnesses at a hearing, and the right to appeal from any adverse determination after a hearing. Two Rivers, by consenting to this Order, knowingly and voluntarily waives these rights, including all rights to appeal or otherwise contest the validity of this Order.
8. Two Rivers, by its officers and attorneys, knowingly and voluntarily enters into this Order. Two Rivers denies the allegations found herein and denies that it has engaged in any unlawful acts or practices.

## **II. STIPULATIONS OF FACT**

9. In 2005, several public entities organized the Iowa Governmental Health Care Plan (“IGHCP”) under Iowa Code Chapter 28E. IGHCP was an agreement to pool risk for health and other welfare benefits as an insurance purchasing group of Iowa public employers.

10. Through the efforts of Two Rivers and others, Wellmark, Inc. began writing health insurance coverage for IGHCP from its inception. Wellmark, Inc. (“Wellmark”) is a mutual insurance company that was incorporated under the laws of the state of Iowa on September 14, 1939. Wellmark is authorized by the insurance commissioner to issue individual and group health insurance. Wellmark’s group health insurance plans are governed by various insurance laws including Iowa Code Chapter 509.

## **III. DIVISION’S ALLEGATIONS**

11. Wellmark is required by Iowa Code § 432.1 to report to the state of Iowa gross premiums received during the preceding calendar year in order to determine premium tax liability. Wellmark filed premium tax returns for each of the years of 2005 through 2014, annually reporting gross direct written premium.

12. In establishing premiums for IGHCP, Wellmark established an initial premium for each member through the use of actuarial standards.

13. On an annual basis thereafter, Wellmark established premium rates for IGHCP for each renewal plan year from 2006 through 2014. A plan year for IGHCP ran from July 1 of any given year to June 30 of the subsequent year.

14. To facilitate the IGHCP yearly insurance renewals, Two Rivers received up to twenty plans from Wellmark each year. Two Rivers then structured approximately three times as many plans with various levels of self-funding dependent upon the needs of each IGHCP member.

15. From the years 2005 through 2013, Mutual Med Insurance Services, LLC (“Mutual Med”) was the wholesale agency for Wellmark. Wellmark required Two Rivers to operate through a wholesaler to receive Wellmark plans. Wellmark’s premiums included commission of 1%. For the time period of 2005 through approximately July 2013, Two Rivers did not receive any portion of the commission paid to Mutual Med. In approximately July 2013, Mutual Med negotiated an increase in the commission percentage and forwarded .25% of its commission to Two Rivers. Mutual Med was terminated by Wellmark as the wholesale agency effective approximately October 1, 2013 and Two Rivers then received all of the commission that previously went to Mutual Med until approximately March 2014. Two Rivers held, in a separate ledger account, both the .25% received from Mutual Med and the full commission received after Mutual Med’s termination pending advice.

16. Two Rivers added compensation, whether described internally as “EBS billing fee” or “Commission to Two Rivers,” to Wellmark’s premium rates for each member of the IGHCP for each plan year from 2005 until April 2014.

17. During the years of 2005 through 2014 Two Rivers’s compensation was totaled with Wellmark rates and then presented to each member of IGHCP on rate summaries on an annual basis and on monthly billings in various ways as premium (e.g. “insurance company premium,” “medical premium,” or “IGHCP Premium”). Two Rivers did not separately itemize or disclose its fees and/or commissions in the materials provided to IGHCP members.

**COUNT I**  
**Iowa Code § 507B.3**

18. Iowa Code § 507B.3 provides:

A person shall not engage in this state in any trade practice which is defined in this chapter as, or determined pursuant to section 507B.6 to be, an unfair method of competition, or an unfair or deceptive act or practice in the business of insurance.

19. Iowa Code § 507B.6 provides:

Whenever the commissioner believes that any person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice whether or not defined in section 507B.4, 507B.4A, or 507B.5 and that a proceeding by the commissioner in respect to such method of competition or unfair or deceptive act or practice would be in the public interest, the commissioner shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing on such charges to be held at a time and place fixed in the notice, which shall not be less than ten days after the date of the service of such notice.

20. Iowa Code § 507B.7(1) provides that upon determining that a person has engaged in an unfair method of competition or an unfair or deceptive act or practice, the Commissioner shall order the person to cease desist and may order a civil penalty not to exceed ten thousand dollars, unless the person knew or should have known that they were in violation of this subtitle, in which case the penalty may not exceed fifty thousand dollars in any six-month period.

21. Iowa Code § 505.8(10) provides:

The commissioner may, after a hearing conducted pursuant to chapter 17A, assess fines or penalties; assess costs of an examination, investigation, or proceeding; order restitution; or take other corrective action as the commissioner deems necessary and appropriate to accomplish compliance with the laws of the state relating to all insurance business transacted in the state.

22. The Division has alleged that during the period of 2005 through 2014, Two Rivers engaged in unfair and deceptive acts and practices in violation of Iowa Code § 507B.3 by presenting various monetary amounts as “premium” on rate summaries provided on an annual basis and on monthly billings to each of the members of IGHCP that, in fact, included Wellmark premium rates plus Two Rivers’ compensation and that such representations had the capacity to mislead members into believing the presented amounts were entirely premium established by Wellmark and concealed the amounts of Two Rivers’ compensation.

23. Violations of Iowa Code § 507B.3 and applicable rules as alleged would constitute grounds for the imposition of a civil penalty, an order of restitution, and an order requiring such person to cease and desist from the unfair and deceptive acts, methods or practices pursuant to Iowa Code §§ 507B.6 and 507B.7.

**COUNT II**  
**Iowa Code § 522B.11**

24. Iowa Code § 522B.11(1) provides:

The commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty as provided in section 522B.17 for any one or more of the following causes:

\*\*\*

*b.* Violating any insurance laws, or violating any regulation, subpoena, or order of the commissioner or of a commissioner of another state.

\*\*\*

*h.* Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

25. Iowa Code § 522B.17(1) provides:

An insurer or insurance producer who, after hearing, is found to have violated this chapter may be ordered to cease and desist from engaging in the conduct resulting in the violation and may be assessed a civil penalty pursuant to chapter 507B.

26. The Division has alleged that during the period of 2005 through 2014, Two Rivers violated Iowa Code §§ 522B.11(1)(*b*) and (*h*) in the conduct of business in this state by adding compensation to the Wellmark premiums and presenting the increased dollar amounts to members of IGHCP as “premium.”

27. Violations of Iowa Code § 522B.11(1) and applicable rules as alleged would constitute grounds for revocation, suspension, censure, the imposition of a civil penalty, an order of restitution, and an order requiring such person to cease and desist from the unfair and deceptive acts, methods or practices pursuant to Iowa Code §§ 522B.11, 522B.17, 507B.6 and 507B.7.

#### **IV. AGREED CEASE AND DESIST ORDER**

Two Rivers, consents to entry of a voluntary cease and desist order and, prior to the entry of this Order, changed the practices at issue in this Order by disclosing the amount of the Wellmark-established premiums and by entering into consulting agreements with members of IGHCP in order to charge and disclose fees for Two Rivers' services.

**NOW THEREFORE, IT IS ORDERED** that Two Rivers Insurance Company, Inc., and its officers, directors, agents and representatives, shall not engage in any act or practice in violation of Iowa Code §§ 507B.3 and 507B.6 and shall not engage in the following practices:

- A. Adding Two Rivers' compensation to an insurer-established premium and representing such monetary amount as "premium" on rate summaries or on monthly billings provided to members of IGHCP, or using any similar representations or formats that have a capacity to mislead members into believing the represented amounts are entirely premium established by the insurer; and
- B. Failing to separately disclose or itemize Two Rivers' fees or other compensation, apart from the insurer-established premium, to the extent they are included on rate summaries or on monthly billings provided to members of IGHCP.

This Order does not prohibit Two Rivers from using an insurer-established premium to structure partial self-funding plans so long as the insurer-established premium; any partial self-funding contributions; and any commissions, fees or other compensation apart from the insurer-established premium are disclosed as separate line items to the extent they are included on rate summaries and on monthly billings.

## **V. RESTITUTION**

**IT IS FURTHER ORDERED** that Two Rivers Insurance Company, Inc. shall pay contemporaneous with its consent to this order the amount of \$1,314,029.10 to the state of Iowa to the credit of the Settlement Fund of the Iowa Insurance Division, as restitution to be distributed to past and current IGHCP members in accordance with the allocations in Exhibit A, attached and incorporated herein.

As a condition of receiving the allocated restitution, the IGHCP member must agree to sign the Election to Participate and Release which is attached as Exhibit B and incorporated herein by reference. If the IGHCP member does not sign the Election to Participate and Release, the allocated restitution sum will be distributed amongst the participating members. The Division will notify the IGHCP members of this within thirty (30) days of the issuance of this Order. IGHCP members will have sixty (60) days following the notification period to return the signed Election to Participate and Release to the Division.

## **VI. RIGHT TO REOPEN**

**IT IS FURTHER ORDERED** that the Division's agreement to, and the Commissioner's issuance of, this Order, is expressly premised upon the truthfulness, accuracy, and completeness of the Two Rivers's representations concerning its ability to pay a financial penalty, including a restitution amount. If, upon motion by the Division, the Commissioner finds that Two Rivers failed to disclose material assets, misrepresented the value of any asset, or made other material misrepresentations or omissions, this matter may be reopened for the purpose of assessing additional restitution amounts and civil penalties.


## VII. RELEASE

**IT IS FURTHER ORDERED** that upon finalization of this Order and payment of the required funds, the Division, and the Commissioner, acknowledge that this Order releases the Respondent, Two Rivers Insurance Company, Inc., its current and former board members, directors, officers, employees, with the express exception of Kerry Erts, Scott Saveraid, and Kevin Carr, from liability for any additional civil or administrative penalties or actions by the Commissioner, the Division, or the staff of the Division in connection with Two Rivers's billing practices relating to fees, commissions, or other compensation charged to groups organized under 28E agreements and any conduct and violations of Iowa insurance laws as described in this Order.

Upon finalization of this Order and payment of the required funds, the Division and the Commissioner, acknowledge that this Order releases Two Rivers Financial Group, Two Rivers Bank & Trust, and Two Rivers's successors from liability for any additional civil or administrative penalties or actions by the Commissioner, the Division, or the staff of the Division in connection with Two Rivers's billing practices relating to fees, commissions, or other compensation charged to groups organized under 28E agreements and any conduct and violations of Iowa insurance laws as described in this Order.

This Order does not release Respondent from civil or criminal liabilities, if any, that may be asserted by any other governmental entity.

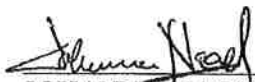
SO ORDERED on this 22<sup>nd</sup> day of may, 2017.



DOUGLAS M. OMMEN  
Iowa Insurance Commissioner



Respectfully submitted,



JOHANNA NAGEL

Compliance Attorney

Iowa Insurance Division

Two Ruan Center

601 Locust Street, 4<sup>th</sup> Floor

Des Moines, IA 50309

johanna.nagel@iid.iowa.gov

515.725.1255

**Attorney for the Iowa Insurance Division**

Copies to:

Michael Richards

Davis Brown Law Firm

215 10<sup>th</sup> Street, Suite 1300

Des Moines, IA 50309

Susan Freed

Davis Brown Law Firm

215 10<sup>th</sup> Street, Suite 1300

Des Moines, IA 50309

Sarah Crane

Davis Brown Law Firm

215 10<sup>th</sup> Street, Suite 1300

Des Moines, IA 50309

**Attorneys for Respondent**

### CONSENT TO ORDER AND AGREEMENT

I, Todd M Ackerman as president and on behalf of Two Rivers Insurance Company, Inc., Respondent in this matter, have read, understood, and do knowingly consent to this Order in its entirety. By executing this consent, I understand that Two Rivers Insurance Company, Inc. is waiving its rights to a hearing, to confront and cross-examine witnesses, to produce evidence, and to judicial review.

I further understand that this Order is considered final administrative action that may be reported by the Division to the National Association of Insurance Commissioners and to other regulatory agencies. I also understand that this Order is a public record under Iowa Code Chapter 22 that will be disclosed to other state regulatory authorities, upon request, pursuant to Iowa Code section 505.8(8)(d). I also understand that the Order will be posted to the Division's web site and a notation will be made to the publicly available web site record that administrative action has been taken against me.

Dated this 15<sup>th</sup> day of May, 2017.

TWO RIVERS INSURANCE COMPANY, INC.

By: 

Subscribed and sworn before me on this 15 day of May, 2017.

Heather Marie Howell  
Notary Public for the State of Iowa



## EXHIBIT A

Central Lee (w/PSF)	\$ 41,023.73
Chickasaw Co.	1,876.72
City of Clive	32,856.94
City of Council Bluffs	253,428.10
City of Fairfield	28,315.60
City of Grinnell	3,273.67
City of Harlan	21,321.00
City of Keokuk	53,247.26
City of Pella	25,835.43
City of Perry	8,878.00
City of Spencer	20,330.70
City of Waukee	25,541.47
City of Waverly	1,981.12
City of Webster City	9,823.98
Clay County	35,480.28
Clayton County	35,670.11
Council Bluffs Public Library	8,201.95
Council Bluffs Waterworks	24,511.65
Dubuque County	11,894.56
Emmet County	21,094.58
Grundy County	52,322.10
Guthrie County	21,551.95
Hancock County	50,994.04
Henry County	63,502.99
Humboldt County	43,395.22
Jefferson County	37,586.91
Keokuk CSD	135,315.05
Monona County	18,725.22
Pottawattamie County	143,356.02
Seymour CSD	18,374.12
Spencer CSD	50,551.36
Union County	8,054.57
Winnebago County	5,712.71
Total	<u>\$ 1,314,029.10</u>

**NOTE:** The above-reference amounts are subject to change with the amounts going up should a listed member decline to participate.

**EXHIBIT B**

**ELECTION TO PARTICIPATE AND RELEASE**

I, \_\_\_\_\_, as \_\_\_\_\_(position)\_\_\_\_\_ and on behalf of \_\_\_\_\_(entity name)\_\_\_\_\_ elect to participate in the distribution of the restitution amount ordered pursuant to the consent order (“Order”) entered into by the Iowa Insurance Division and Two Rivers Insurance Company, Inc., on \_\_\_\_\_, 2017 regarding matter number 82465.

By executing this election and receiving a payment for restitution, \_\_\_\_\_(entity)\_\_\_\_\_ agrees to release Two Rivers Insurance Company, Inc., its current and former board members, directors, officers, employees, with the express exception of Kerry Erts, Scott Saveraid, and Kevin Carr, from liability for any civil claims or penalties in connection with Two Rivers’s conduct as described in the Order. \_\_\_\_\_(entity)\_\_\_\_\_ further agrees to release Two Rivers Financial Group, Two Rivers Bank & Trust, and Two Rivers Insurance Company, Inc.’s successors from liability for any civil claims or penalties in connection with Two Rivers’s conduct as described in the Order.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
(ENTITY NAME)

By (\*)

Subscribed and sworn before me on this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public for the State of Iowa



RESOLUTION NO. 17-144

A resolution authorizing the Mayor to execute the ELECTION TO PARTICIPATE AND RELEASE documents for the City of Council Bluffs, and the Council Bluffs Public Library in the Iowa Insurance Division Matter #82465.

WHEREAS, the Iowa Insurance Division and Two Rivers Insurance Company have reached a settlement; and,

WHEREAS, the Insurance Division has determined an allocation of that settlement for the City of Council Bluffs, and the Council Bluffs Public Library; and,

WHEREAS, said election to participate and release is deemed to be in the best interest of the City of Council Bluffs, Iowa;

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:

The Mayor is authorized to execute the ELECTION TO PARTICIPATE AND RELEASE documents for the City of Council Bluffs, and the Council Bluffs Public Library.

Adopted  
And  
Approved

July 10 2017

\_\_\_\_\_  
Matthew Walsh Mayor

Attest \_\_\_\_\_  
Jodi Quakenbush City Clerk

## Council Communication

Department: Finance  
Case/Project No.:  
Submitted by: Kathryn Knott

Resolution 17-153

Council Action: 7/10/2017

### Description

Resolution directing Sale of \$9,980,000 (Subject to Adjustment per Terms of Offering) General Obligation Bonds, Series 2017A

### Background/Discussion

On Monday July 10, 2017, at 10:00 AM the City of Council Bluffs will receive bids for the competitive sale of up to 9,980,000 (dollar amount subject to change) in General Obligation Bonds Series 2017A. The bids will be received and opened in the offices of the City's Municipal Advisor, PFM Financial Advisors, LLC. PFM will tally and analyze the bids to determine the best offer in terms of purchase price, true interest rate and net interest cost. That information, along with all other bids will be forwarded to the City of Council Bluff's Finance Office. The Director of Finance will use that information to complete the resolution framework attached and recommend the sale of the Bonds to the lowest responsible bid. The Finance Office will then forward the necessary information to the City's Bond Counsel, who will prepare a resolution for consideration at the July 24, 2017 regular meeting of the City Council, finalizing and officially authorizing the sale of the bonds on the terms detailed in the lowest responsible bid.

### Recommendation

Approve the resolution

### ATTACHMENTS:

Description	Type	Upload Date
Resolution 17-153	Resolution	7/3/2017

**Resolution 17-153**

**ITEMS TO INCLUDE ON AGENDA FOR JULY 10, 2017**

**CITY OF COUNCIL BLUFFS, IOWA**

\$9,980,000 (Subject to Adjustment per Terms of Offering) General Obligation Bonds, Series 2017A.

- Receipt of bids.
- Resolution directing sale.

NOTICE MUST BE GIVEN PURSUANT TO IOWA CODE  
CHAPTER 21 AND THE LOCAL RULES OF THE CITY.



July 10, 2017

The Finance Director of the City of Council Bluffs, State of Iowa, met in the City Hall, 209 Pearl Street, Council Bluffs, Iowa, at 10:00 A.M., on the above date, to open sealed bids received, access electronic bids and to refer the sale of the Bonds to the best and most favorable bidder for cash, subject to approval by the City Council at 7:00 P.M. on the above date.

The following persons were present:

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\* \* \* \* \*

This being the time and place for the opening of bids for the sale of \$9,980,000 (Subject to Adjustment per Terms of Offering) General Obligation Bonds, Series 2017A, the meeting was opened for the receipt of bids for the Bonds. The following actions were taken:

1. Sealed bids were filed and listed in the minutes while unopened, as follows:

Name & Address of Bidders:

(Attach List of Bidders)

2. The Finance Director then declared the time for filing of sealed bids to be closed and that the sealed bids be opened. The sealed bids were opened and announced.

3. Electronic bids received were accessed and announced as follows:

Name & Address of Bidders:

(Attach List of Bidders)

4. The best bid was determined to be as follows:

Name & Address of Bidder: \_\_\_\_\_

True Interest Rate (as-bid): \_\_\_\_\_%

Net Interest Cost (as-bid): \$ \_\_\_\_\_

In consultation with the Municipal Advisor, the City considered the adjustment of the aggregate principal amount of the Bonds and each scheduled maturity thereof in accordance with the Terms of Offering and the following actions were taken:

Final Par Amount as adjusted: \$ \_\_\_\_\_

Purchase Price as adjusted: \$ \_\_\_\_\_

All bids were then referred to the Council for action.

July 10, 2017

The City Council of the City of Council Bluffs, State of Iowa, met in \_\_\_\_\_ session, in the Council Chambers, City Hall, 209 Pearl Street, Council Bluffs, Iowa, at 7:00 P.M., on the above date. There were present Mayor \_\_\_\_\_, in the chair, and the following named Council Members:

\_\_\_\_\_

Absent: \_\_\_\_\_

Vacant: \_\_\_\_\_

\* \* \* \* \*

Council Member \_\_\_\_\_ introduced the following Resolution entitled "RESOLUTION DIRECTING SALE OF \$ \_\_\_\_\_ GENERAL OBLIGATION BONDS, SERIES 2017A," and moved its adoption. Council Member \_\_\_\_\_ seconded the motion to adopt. The roll was called and the vote was,

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Whereupon, the Mayor declared the following Resolution duly adopted:

Resolution 17-153

RESOLUTION DIRECTING SALE OF \$ \_\_\_\_\_  
GENERAL OBLIGATION BONDS, SERIES 2017A

WHEREAS, bids have been received for the Bonds described as follows and the best bid received (with permitted adjustments, if any) is determined to be the following:

\$ \_\_\_\_\_ GENERAL OBLIGATION BONDS,  
SERIES 2017A

Bidder: \_\_\_\_\_ of \_\_\_\_\_

The terms of award:

Final Par Amount as adjusted: \$ \_\_\_\_\_

Purchase Price as adjusted: \$ \_\_\_\_\_

True Interest Rate: \_\_\_\_\_ %

Net Interest Cost: \$ \_\_\_\_\_

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, STATE OF IOWA:

Section 1. That the bid for the Bonds as above set out is hereby determined to be the best and most favorable bid received and, the Bonds are hereby awarded as described above.

Section 2. That the statement of information for Bond bidders and the form of contract for the sale of the Bonds are hereby approved and the Mayor and Clerk are authorized to execute the same on behalf of the City.

Section 3. That the notice of the sale of the Bonds heretofore given and all acts of the Finance Director and Clerk done in furtherance of the sale of the Bonds are hereby ratified and approved.

PASSED AND APPROVED this 10th day of July, 2017.

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Mayor

ATTEST:

---

City Clerk

STATE OF IOWA )  
 ) SS  
COUNTY OF POTTAWATTAMIE )

WITNESS my hand and the seal of the Council hereto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

(SEAL)

## Council Communication

Department: Health  
Case/Project No.: Public Health  
Department  
Submitted by: Donn Dierks,  
Director

Resolution 17-154

Council Action: 7/10/2017

### Description

Resolution assessing \$9,514.00 in unpaid weed abatement cost against property owners with the County Treasurer.

### Background/Discussion

This item is a resolution assessing \$9,514.00 in unpaid costs of weed abatement against these Properties. It is recommended that Council pass this resolution.

#### PERTINENT FACTS

The properties were inspected by personnel of the Department of Public Health and found to contain weeds, brush and/or debris in violation of City Ordinance 4.19.010 or 8.54.010. The titleholder of record was notified by mail of the violation and given at least seven (7) days to abate the nuisance.

#### CASE HISTORY

Upon failure of the owner to comply with the notice the property was referred to the city contractor who abated the weeds, brush and/or debris. The city was billed for this work and has paid the contractor. We have in turn sent a statement to the titleholder of record requesting payment of this amount plus the cost to the city for enforcing the ordinance. To date, payment has not been received and at least ten (10) days have elapsed from the date of billing.

The Council has for the past thirty-six years assessed all costs of weed abatement against other properties.

#### ALTERNATIVE ACTIONS

City Ordinance states that these unpaid costs “may be assessed, therefore, there are two major alternatives possible:

1. Take no action: The cost of the abatement at these properties will be paid from the general fund. Thus, the cost will be spread among all taxpayers including the vast majority who care for their property and keep it cut.
2. Asses the costs to the specific property: Thus, the responsible property owner will bear the cost of failing to comply with City Ordinance (unless they choose not to pay the taxes). In addition to all costs incurred, an additional \$5.00 has been added to each amount to help pay for the extra work involved in the assessment process.

### Recommendation

#### RECOMMENDATION

The Health Director is recommending that the Council adopt alternative 2: Assessment of all costs against the properties. This resolution accomplishes this alternative.



**ATTACHMENTS:**

Description	Type	Upload Date
PROPERTY LIST OF UNPAID ABATEMENS	Resolution	6/29/2017
Resolution 17-154	Resolution	7/3/2017

	2017	Quarter 2			
Parcel	Address	Description	Name	Num	Lien
7444 10 385 010	4017 BEL AIR DR	TWIN CITIES PLAZA LOT 206	LARSEN, ANTHONY-DAWN	39	\$155.00
7444 16 252 019	3511 JOHN ST	MOORES SUB SW NE 16 74 44 LT 8 BLK 8	ANCHONDO, WALTER A PEREZ	26	\$155.00
7444 16 252 019	3511 JOHN ST	MOORES SUB SW NE 16 74 44 LT 8 BLK 8	ANCHONDO, WALTER A PEREZ	84	\$155.00
7543 19 377 007	1544 N BROADWAY ST	AUD SUB SECTION 19-75-43 SE SW E186' N100' S235.5' EXC S35.5' LT 3 1.23 AC	PAUL, JAMES P-VIRGINIA L	59	\$262.00
7543 30 327 009	149 NICHOLAS ST	EMERSON TERRACE LT 5	AYERS, AUTUMN D	37	\$375.00
7544 25 157 005	1025 N 8TH ST	ROSS PLACE LT 5	FLENKER, NATHAN J-MEGAN K	41	\$558.00
7544 25 182 003	817 MILITARY AVE	ROHRER PARK 2ND ADD S44' LTS 5 THRU 7 BLK 6	SHOCKEY, THOMAS E	10	\$155.00
7544 25 278 005	LT N of 278 BENTON	JOHNSON ADD PT LT 52 COMM 50'N SE COR LT 52 TH W49.85' N47' E50' S44.1' TO POB	BERNER, WILLIAM A-JENNIFER L	11	\$155.00
7544 25 278 005	LT N of 278 BENTON	JOHNSON ADD PT LT 52 COMM 50'N SE COR LT 52 TH W49.85' N47' E50' S44.1' TO POB	BERNER, WILLIAM A-JENNIFER L	51	\$155.00
7544 25 309 004	817 AVE F	HALLS ADD LT 3 BLK 8	WORTH, DONALD D	77	\$191.00
7544 25 309 005	813 AVE F	HALLS ADD LT 4 BLK 8	WORTH, DONALD D	76	\$188.00
7544 25 309 007	830 AVE E	HALLS ADD LT 12 BLK 8	TWO LEG LLC	6	\$186.00
7544 25 309 015	804 AVE E	HALLS ADDITION S1/2 LT 7 BLK 8	KELLER, ROBERTA L	44	\$182.00
7544 25 355 015	224 N 8TH ST	GRIMES ADD N33' LT 1 BLK 5	MCNABB, SHARON L	34	\$155.00
7544 25 356 002	1st LT S of 215 N 8 ST	GRIMES ADD N26' W94' EXC 3.5' LT 7 BLK 3	BIG CAT INC	7	\$155.00
7544 25 356 002	1st LT S of 215 N 8 ST	GRIMES ADD N26' W94' EXC 3.5' LT 7 BLK 3	BIG CAT INC	42	\$155.00
7544 25 356 003	2nd LT S of 215 N 8 ST	GRIMES ADDITION S32 FT W94 FT LT 7 BLK 3	ATHAY, WILLIAM T III	8	\$155.00
7544 25 356 003	2nd LT S of 215 N 8 ST	GRIMES ADDITION S32 FT W94 FT LT 7 BLK 3	ATHAY, WILLIAM T III	49	\$155.00
7544 25 360 006	LT N of 743 MYNSTER ST	GRIMES ADDITION EX W84.6 FT LT 1 BLK 3	MEEHAN, BRIAN	25	\$155.00
7544 25 360 006	LT N of 743 MYNSTER ST	GRIMES ADDITION EX W84.6 FT LT 1 BLK 3	MEEHAN, BRIAN	69	\$155.00
7544 25 427 020	292 HARRISON ST	SMITHS SUB ORIG PLAT 47 LT 2	MAHANKE, SHAD	31	\$167.00
7544 25 487 014	110 STUTSMAN ST	STUTSMANS FIRST ADD N10' LT 6 BLK 3 & S10' LT 7 BLK 3	WORTH, DONALD D	45	\$155.00
7544 26 162 006	722 N 22ND ST	CENTRAL SUB S70.88 LT 1 AND 2 S61.25 LT 3 BLK 20	WITZKE, ALBERT	62	\$214.00
7544 26 283 007	1316 AVE I	POTTER - COBBS FIRST ADD LOT 0012BLOCK 0008	HANISCH, JAMES M	5	\$160.00
7544 26 283 007	1316 AVE I	POTTER - COBBS FIRST ADD LOT 0012BLOCK 0008	HANISCH, JAMES M	58	\$187.00
7544 26 308 004	2213 AVE G	BURKES ADD LT 4 BLK 1	VALE LLC	32	\$156.00
7544 26 339 022	1710 AVE E	BAYLISS & PALMER ADD LT 6 BLK 7	NELSON, BENJAMIN J	79	\$155.00
7544 27 201 041	2638 AVE L	CITY ACRES E33.2' LT 40 W6.8' LT 39	EVERS, NORMA D	2	\$206.00
7544 27 307 018	3304 AVE D	PERRYS SECOND ADD W38' LT 9 & E24' LT 10 BLK J	SCHWIESOW, CORY L-STEPHANIE	55	\$162.00
7544 27 340 011	2826 AVE C	EVANS 2ND BRIDGE ADD LT 12 BLK 16	M T G L Q INVESTORS LP	75	\$155.00
7544 27 435 001	2451 AVE D	CENTRAL SUB LT 13 BLK 30	SORENSEN, DIANA C	61	\$155.00
7544 28 476 010	3500 AVE C	FERRY ADDITION LOT 0015BLOCK 0019	SIMMONS, ALLEN-JENNIFER	56	\$174.00
7544 33 253 013	3620 6TH AVE	BROWN SUB LT 26 BLK 49	ELLIFF, GERALD N	33	\$155.00
7544 33 281 004	3523 6TH AVE	BROWNS SUB LT 6 BLK 29	HADLUND, RICHARD JOSEPH JR	48	\$155.00
7544 34 256 010	LT W of 2650 7TH AVE	WEBSTERS FIRST ADD LTS 16-17 BLK 7	AYERS, AUTUMN D	4	\$223.00
7544 34 256 010	LT W of 2650 7TH AVE	WEBSTERS FIRST ADD LTS 16-17 BLK 7	AYERS, AUTUMN D	54	\$196.00
7544 34 276 009	2501 4TH AVE	WRIGHTS ADD LTS 1-2 BLK 10	HASTIE, DARREL E	16	\$155.00
7544 34 276 009	2501 4TH AVE	WRIGHTS ADD LTS 1-2 BLK 10	HASTIE, DARREL E	78	\$155.00
7544 34 279 016	522 S 24TH ST	WRIGHTS ADD E16 FT LT 44 & ALL LTS 45-46 BLK 12	KERN, TERRANCE J-ANGELA C	40	\$177.00
7544 34 333 006	923 BIRCH ST	SELDINS 2ND ADDITION LOT 0097	KELLY, KENNETH-MARJORIE	50	\$155.00
7544 35 137 001	1827 3RD AVE	EVERETTS ADDITION LT 1 BLK 11 & N1/2 VAC ALLEY ADJ	LANK, PHYLLIS	3	\$165.00
7544 35 137 001	1827 3RD AVE	EVERETTS ADDITION LT 1 BLK 11 & N1/2 VAC ALLEY ADJ	LANK, PHYLLIS	52	\$165.00
7544 35 184 006	2007 6TH AVE	VAN BRUNT & RICES ADD LTS 3 & 4 BLK 5	GARTEN, DANNY R-DIANE J	13	\$224.00
7544 35 184 006	2007 6TH AVE	VAN BRUNT & RICES ADD LTS 3 & 4 BLK 5	GARTEN, DANNY R-DIANE J	57	\$165.00
7544 35 190 007	LT W of 1816 8TH AVE	PIERCES SUB LT 11 BLK 11	L B T IOWA 9591	12	\$162.00
7544 35 190 007	LT W of 1816 8TH AVE	PIERCES SUB LT 11 BLK 11	L B T IOWA 9591	53	\$162.00
7544 35 255 007	1702 6TH AVE	EVERETTS ADD LT 4 BLK 23	GREEN, MAXWELL W JR	17	\$167.00
7544 36 108 006	215 S 10TH ST	BAYLISS 2ND ADD N51 1/2' LT 6 BLK 11	MCGOVERN, DANIEL E	71	\$155.00
7544 36 151 014	1000 5TH AVE	CURTIS & RAMSEY ADD S87' LT 6 BLK A	LERETTE, DAVID L JR	23	\$155.00
7544 36 151 014	1000 5TH AVE	CURTIS & RAMSEY ADD S87' LT 6 BLK A	LERETTE, DAVID L JR	72	\$155.00
7544 36 262 004	706 S 3RD ST	JACKSONS ADDITION LT 2 AND S2' LT 1 BLK 12	RAITHER, ROBERT R-JANE A	20	\$155.00
7544 36 360 006	W LT N OF 810 6TH AVE	RIDDLES SUB LT 15 BLK 71	LUSTGRAAF, THOMAS E	73	\$155.00
7544 36 360 007	E LT N OF 810 6TH AVE	RIDDLES SUB LT 16 BLK 71	LUSTGRAAF, THOMAS E	74	\$155.00
		TOTAL	\$9,514.00		

RESOLUTION NO. 17-154

WHEREAS, City Ordinance No. 4849, passed and approved by the Council Bluffs City Council on April 15, 1988, requires all property owners within the City of Council Bluffs, Iowa, to cut or destroy all weeds exceeding 18 inches in height;

and

WHEREAS, all property owners in Council Bluffs were notified of the above requirements by ordinance and by publication in the Council Bluffs Nonpareil.

and

WHEREAS, the owner of each specific property was notified by regular mail and given at least seven (7) days to abate the nuisance;

and

WHEREAS, the City, through its contractor, has attempted to cut or destroy all weeds exceeding 18 inches in height found upon property where the owners have failed to cut or destroy the weeds themselves;

and

WHEREAS, more than ten days have elapsed since the City has billed each property owner by mail for the cost of removing the weeds from their properties;

and

WHEREAS, the cost of weed abatement on these properties has been incurred by the City and remains unpaid;

and

WHEREAS, the City Council may have these unpaid costs assessed against the properties from which the weeds were removed pursuant to Section 4.19.010 or 8.54.010 of the Municipal Code of the City of Council Bluffs, Iowa, and Section 364.12(3) (g) and (h) of the State Code of Iowa:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, IOWA:

That the unreimbursed costs incurred by the City for the abatement of weeds found upon the properties be assessed against said properties;

and

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized, empowered and directed to certify said properties and assessments to the Pottawattamie County Treasurer to be collected in the same manner as a property tax.

ADOPTED AND  
APPROVED

July 10, 2017,

BY: \_\_\_\_\_  
Matthew J. Walsh, Mayor

ATTEST: \_\_\_\_\_  
Jodi Quakenbush, City Clerk

## Council Communication

Department: Health  
Case/Project No.: Public Health  
Department  
Submitted by: Donn Dierks,  
Director

Resolution 17-155

Council Action: 7/10/2017

### Description

Resolution assessing the unpaid solid waste nuisance cost against property owners with the County Treasurer.

### Background/Discussion

This item is a resolution assessing \$3,510.00 in unpaid costs of solid waste abatement against these Properties. It is recommended that Council pass this resolution.

#### PERTINENT FACTS

The properties were inspected by personnel of the Department of Public Health and found to contain a nuisance of solid waste on private property or on public right-of-way, as specified in municipal code 10.02.040 and/or 4.12.140. The title-holder of record was notified by posting notice on the property and given 48 hours to remove materials from public right-of-way and 3 days to remove materials from private property.

Or, in the case of a nuisance deemed an emergency, Municipal code 10.02.060 states that the “city may perform any action required by this chapter without prior notice to the abutting property owner, and assess the costs and administrative charges in the same fashion as set out in 10.02.040.”

#### CASE HISTORY

Upon failure of the owner to abate the problems, the property was referred to the city contractor who abated the nuisance. The city was billed for this work and has paid the contractor. We have in turn sent a statement to the titleholder of record requesting payment of this amount plus the cost to the city for enforcing the ordinance. To date, payment has not been received and at least ten (10) days have elapsed from the date of billing.

#### ALTERNATIVE ACTIONS

City Ordinance states that these unpaid costs “may be assessed against the property for collection in the same manner as a property tax, pursuant to the provisions of Section 364.12 of the Code of Iowa. An additional administrative fee shall be added to each delinquent account if it is certified for collection by the county auditor.”

1. Take no action: The cost of the abatement at these properties will be paid from the general fund. Thus, the cost will be spread among all taxpayers including the vast majority who care for their property, keeping it free of solid waste.
2. Assess the costs to the specific property: Thus, the responsible property owner will bear the cost of failing to comply with City Ordinance (unless they choose not to pay the taxes). In addition to all costs incurred, an additional \$5.00 has been added to each amount to help pay for the extra work involved in the assessment process.

### Recommendation

**RECOMMENDATION**

The Health Director is recommending that the Council adopt alternative 2: Assessment of all costs against the properties. This resolution accomplishes this alternative.

**ATTACHMENTS:**

Description	Type	Upload Date
Request to assess solid waste abatements.	Resolution	6/29/2017
Resolution 17-155	Resolution	7/3/2017

2017

**Quarter 2: SOLID WASTE ABATEMENT**

Parcel	Address	Description	Name	Num	Amount
7543 19 479 016	44 E RIDGE DR	SWEETMAN & FIORI LT 10 BLK 2	COLLETT, TAMERA C	SW 32	\$204.00
7543 30 327 009	149 NICHOLAS ST	EMERSON TERRACE LT 5	AYERS, AUTUMN D	SW 31	\$507.00
7544 25 153 009	924 AVE H	CRAWFORDS ADD LT 10 BLK 11	WORTH, DONALD D	SW 26	\$225.00
7544 25 157 005	1025 N 8TH ST	ROSS PLACE LT 5	FLENKER, NATHAN J-MEGAN K	SW 25	\$277.00
7544 26 283 007	1316 AVE I	POTTER - COBBS FIRST ADD LOT 0012BLOCK 0008	HANISCH, JAMES M	SW 19	\$201.00
7544 26 362 009	2101 AVE C	HIGHLAND PLACE LTS 1-2 BLK 11	MASCHMEIER, JEREMY	SW 21	\$240.00
7544 26 455 003	1620 AVE C	BEERS SUB W1/2 LT 3 BLK 4	SMITH, KRISTIE SUE	SW 20	\$284.00
7544 27 435 001	2451 AVE D	CENTRAL SUB LT 13 BLK 30	SORENSEN, DIANA C	SW 24	\$228.00
7544 28 476 010	3500 AVE C	FERRY ADDITION LOT 0015BLOCK 0019	SIMMONS, ALLEN-JENNIFER	SW 30	\$295.00
7544 33 255 007	610 S 36TH ST	BROWN SUB S50' LTS 1, 2 & 3 BLK 48	HARDICK, MATTHEW P-JAN LYNN	SW 33	\$202.00
7544 35 137 001	1827 3RD AVE	EVERETTS ADDITION LT 1 BLK 11 & N1/2 VAC ALLEY ADJ	LANK, PHYLLIS	SW 17	\$266.00
7544 36 151 008	1026 5TH AVE	TIPTONS SUB OF CURTIS LOT 0002	MIGUEL, RUDESINDO-EULALIA	SW 22	\$179.00
7544 36 262 004	706 S 3RD ST	JACKSONS ADDITION LT 2 AND S2' LT 1 BLK 12	RAITHER, ROBERT R-JANE A	SW 23	\$402.00
			<b>TOTAL</b>		<b>\$3,510.00</b>

RESOLUTION NO. 17-155

WHEREAS, City Ordinance No. 5219 and 5220, passed and approved by the Council Bluffs City Council on May 22, 1995, requires all property owners to abate any nuisance upon public right-of-way of materials stored for more than 24 hours, or materials stored on private property for more than 3 days,

and

WHEREAS, the owner of each specific property was given proper notification to remove materials from public right-of-way and from private property,

and/or

WHEREAS, an emergency existed as defined in section 10.02.060 and /or 4.12.140

and

WHEREAS, the owner failed to remove the materials in the allotted time,

and

WHEREAS, the City, through it's contractor removed the materials,

and

WHEREAS, the City has billed the owner by mail for the cost of removing the materials from their properties,

and

WHEREAS, more than 10 days have elapsed since the billing and the bills remain unpaid:

and

WHEREAS, the City Council may have these unpaid costs assessed against the properties from which the materials were removed pursuant to Section 10.02.070 or 4.12.140 of the Municipal Code of the City of Council Bluffs, Iowa,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, IOWA:

That the unreimbursed costs incurred by the City for the removal of nuisances found on these properties be assessed against said properties;

and

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized, empowered and directed to certify said properties and assessments to the Pottawattamie County Treasurer to be collected in the same manner as a property tax.

ADOPTED  
AND  
APPROVED

July 10, 2017,

BY:

\_\_\_\_\_  
Matthew J. Walsh, Mayor

ATTEST:

\_\_\_\_\_  
Jodi Quakenbush, City Clerk

## Council Communication

Department: Community

Development

Case/Project No.:

Submitted by: Courtney Harter

Resolution 17-156

Council Action: 7/10/2017

### Description

Resolution approving the use of 2018 Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) program funds and directing the Mayor to submit the 2018 Annual Plan to the City of Omaha and the U.S. Department of Housing and Urban Development (HUD)

### Background/Discussion

The City of Council Bluffs is an entitlement community under the Community Development Block Grant (CDBG) program, which results in annual funding from the U.S. Department of Housing and Urban Development (HUD). The City has also entered into a HOME consortium agreement with the City of Omaha, which results in receiving annual funds from the Home Investment Partnership Program (HOME). In order to receive these funds, the City is required to submit to HUD an Annual Plan. The Annual Plan details the City's objectives, revenues, expenditures and other actions. This document is prepared by the Community Development Department with input from the Community Development Advisory Committee (CDAC). This process began in May of 2017. This document was developed with the anticipation of receiving a total of approximately \$850,000 in CDBG funding and \$190,000 in HOME funding for the period of January 1, 2018 through December 31, 2018. The total CDBG program budget is \$2,578,900 and includes the following sources of revenue: 2018 CDBG Grant and Carryover - \$2,433,900 and Obligated Program Income - \$145,000.

Of the available funding, a significant amount is recommended for ongoing programs. However, a portion of the available funds were allocated to various projects using a request for proposal (RFP) process. This included advertising the availability of funding in the The Daily Nonpareil, posting the availability of funding at the Council Bluffs Public Library and City Hall and notifying others who expressed an interest. Upon the receipt of proposals, public hearings were held and recommendations formulated. The Community Development Department and CDAC are now recommending the allocation of the 2018 CDBG and HOME program funds. A listing of the programs and projects recommended for 2018 CDBG funds is outlined in "Attachment A" and the 2018 HOME funds is outlined in "Attachment B" for your review. Upon City Council approval, the Community Development Department will forward the 2018 Annual Plan to the City of Omaha and to HUD.

### Recommendation

The Community Development Department recommends that City Council adopt a resolution approving the use of the 2018 CDBG and HOME program funds as outlined in the attached budgets; direct the Mayor to



submit the 2018 Annual Plan to the City of Omaha and to HUD; and direct the Mayor to execute contracts with HUD for the use of the CDBG funds and with the City of Omaha for the use of the HOME funds.

On June 29, 2017, the Community Development Advisory Committee (CDAC) met to review the 2018 CDBG and HOME program funds and recommend their approval. CDAC recommends the following for approval:

1. Allocating CDBG funds to Housing Development projects as outlined in “Attachment A.” Motion carried by unanimous voice vote of those present. VOTE: AYE: Brunow, Schlott; NAY – None; ABSTAIN – Heininger; ABSENT – Lastrup, Madsen.
2. Allocating CDBG funds to Public Facilities and Improvement projects, Planning/Administration/Project Supervision, Community Development projects, and approving project revenues as outlined in “Attachment A;” and authorizing the Mayor to execute the contract with HUD for the use of CDBG funds. Motion carried by unanimous voice vote of those present. VOTE: AYE: Brunow, Heininger, Schlott; NAY – None; ABSTAIN – None; ABSENT – Lastrup, Madsen.
3. Allocating the 2018 HOME funds as outlined in “Attachment B” and directing the Mayor to submit a 2018 Annual Plan to Omaha and authorizing the Mayor to execute the contract with City of Omaha for the use of the HOME funds. Motion carried by unanimous voice vote of those present. VOTE: AYE: Brunow, Heininger, Schlott; NAY – None; ABSTAIN – None; ABSENT – Lastrup, Madsen.

#### **ATTACHMENTS:**

Description	Type	Upload Date
Attachment A - CDBG Budget	Other	6/29/2017
Attachment B - HOME Budget	Other	6/29/2017
Resolution 17-156	Resolution	7/3/2017

## SECTION I - 2018 COMMUNITY DEVELOPMENT PROGRAM AND PROJECT EXPENDITURES

Attachment A

	2017	2018	Staff CDBG Recommended	Projected Program Income (PI)*	CDAC & Staff CDBG + PI Recommended	Notes & Source of Program Income
<u>Community Development Program</u>	Allocation	Request				
<b>Part I - Housing Development</b>						
<u>Housing Rehabilitation</u>						
Home Improvement Program	\$ 260,550.00	\$ 330,000.00	\$ 315,000.00	\$ 15,000.00	\$ 330,000.00	Loan Payments (\$15,000)
League of Human Dignity	\$ 5,250.00	\$ 30,000.00	\$ 25,000.00	\$ -	\$ 25,000.00	Admin \$95,600 Emerg \$25,000 Loans \$180,000
Habitat for Humanity	\$ -	\$ 30,000.00	\$ -	\$ -	\$ -	
Infill	\$ 116,800.00	\$ 120,000.00	\$ 120,000.00	\$ -	\$ 120,000.00	
<u>Housing Development</u>	\$ -	\$ -	\$ -	\$ -	\$ -	
<b>Subtotal - Housing Development</b>	<b>\$ 382,600.00</b>	<b>\$ 510,000.00</b>	<b>\$ 460,000.00</b>	<b>\$ 15,000.00</b>	<b>\$ 475,000.00</b>	
<b>Part II - Economic Development</b>						
<b>Subtotal - Economic Development</b>		\$ -	\$ -	\$ -	\$ -	
<b>Part III - Public Services/Facilities</b>						
<u>Homeless/Transitional</u>						
MICAH House	\$ 33,600.00	\$ 35,000.00	\$ 33,600.00	\$ -	\$ 33,600.00	
Catholic Charities - Phoenix House	\$ 8,400.00	\$ 11,500.00	\$ 8,400.00	\$ -	\$ 8,400.00	
HFS - Heartland Homes	\$ 11,550.00	\$ 15,000.00	\$ 11,550.00	\$ -	\$ 11,550.00	
HFS - PCHO	\$ 15,750.00	\$ 20,000.00	\$ 15,750.00	\$ -	\$ 15,750.00	
New Visions/MOHM's Place	\$ 33,600.00	\$ 35,000.00	\$ 33,600.00	\$ -	\$ 33,600.00	
<u>Public Facilities and Improvements</u>						
HFS - Iowa Family Works	\$ -	\$ 47,960.00	\$ 30,000.00	\$ -	\$ 30,000.00	
New Visions - Medical/Education Expansion	\$ -	\$ 25,000.00	\$ 10,000.00	\$ -	\$ 10,000.00	
Senior Center - Pool Room Renovation	\$ -	\$ 42,887.00	\$ 10,000.00	\$ -	\$ 10,000.00	
MICAH House - Heat Treatment Room	\$ -	\$ 40,000.00	\$ 35,000.00	\$ -	\$ 35,000.00	
<u>Housing Counseling</u>						
FHAS	\$ 26,250.00	\$ 26,000.00	\$ 26,000.00	\$ -	\$ 26,000.00	
<b>Subtotal - Public Services/Facilities</b>	<b>\$ 129,150.00</b>	<b>\$ 298,347.00</b>	<b>\$ 213,900.00</b>	<b>\$ -</b>	<b>\$ 213,900.00</b>	
<b>Part IV - Planning/Administration/Project Supervision</b>						
CD Project Delivery Costs	\$ 65,550.00	\$ 68,170.00	\$ 70,250.00	\$ -	\$ 70,250.00	
Administration	\$ 244,950.00	\$ 264,750.00	\$ 264,750.00	\$ -	\$ 264,750.00	AFPH included
<b>Subtotal - CD Department</b>	<b>\$ 310,500.00</b>	<b>\$ 332,920.00</b>	<b>\$ 335,000.00</b>	<b>\$ -</b>	<b>\$ 335,000.00</b>	
<b>Part V - Undesignated</b>						
Undesignated Funds	\$ -	\$ 357,100.00	\$ 347,100.00	\$ -	\$ 347,100.00	
<b>Subtotal - Undesignated</b>	<b>\$ -</b>	<b>\$ 357,100.00</b>	<b>\$ 347,100.00</b>	<b>\$ -</b>	<b>\$ 347,100.00</b>	
<b>Total CD Program</b>	<b>\$ 822,250.00</b>	<b>\$ 1,498,367.00</b>	<b>\$ 1,356,000.00</b>	<b>\$ 15,000.00</b>	<b>\$ 1,371,000.00</b>	
<b>Community Development Projects</b>						
Neighborhood Development (1st Ave Construction)	\$ 189,500.00	\$ 100,000.00	\$ 100,000.00	\$ -	\$ 100,000.00	
Neighborhood Development (Walnut Grove Sewer)	\$ 100,000.00	\$ -	\$ -	\$ -	\$ -	
Neighborhood Development (Opportunities)	\$ -	\$ 282,900.00	\$ 282,900.00	\$ -	\$ 282,900.00	
Neighborhood Development (T8D)	\$ -	\$ 250,000.00	\$ 250,000.00	\$ -	\$ 250,000.00	
Neighborhood Development (South 13th St)	\$ -	\$ 350,000.00	\$ 290,000.00	\$ 60,000.00	\$ 350,000.00	Lot Sales \$20,000 each Gen Fund CD-19-02 (\$50,000)
Mid-City Cleanup	\$ 50,000.00	\$ 100,000.00	\$ 100,000.00	\$ 50,000.00	\$ 150,000.00	
Blighted Program (22nd Ave and S 6th St)	\$ 225,000.00	\$ -	\$ -	\$ -	\$ -	
Blighted Program (South End)	\$ -	\$ 60,000.00	\$ 40,000.00	\$ 20,000.00	\$ 60,000.00	Lot Sales \$20,000 each
Blighted (NWHS)	\$ 15,000.00	\$ 30,000.00	\$ 15,000.00	\$ -	\$ 15,000.00	
<b>Total CD Projects</b>	<b>\$ 579,500.00</b>	<b>\$ 1,172,900.00</b>	<b>\$ 1,077,900.00</b>	<b>\$ 130,000.00</b>	<b>\$ 1,207,900.00</b>	
<b>Total CD Program and Projects</b>	<b>\$ 1,401,750.00</b>	<b>\$ 2,671,267.00</b>	<b>\$ 2,433,900.00</b>	<b>\$ 145,000.00</b>	<b>\$ 2,578,900.00</b>	

## SECTION II - 2017 COMMUNITY DEVELOPMENT PROGRAM AND PROJECT REVENUES

<b>Part I - CDBG Grants and Carryover</b>	<b>\$ Amounts</b>	
CDBG 2018 Entitlement	\$ 840,000.00	
Obligated Carryover	\$ 1,592,900.00	
Miscellaneous Fees or Refunds	\$ 1,000.00	
<b>Subtotal - CDBG Grants and Unobligated Income</b>	<b>\$ 2,433,900.00</b>	
<b>Part II - CDBG Obligated Program Income</b>	<b>\$ Amounts</b>	
Home Improvement Program (Loan Payments)	\$ 15,000.00	
Mid-City Corridor	\$ 50,000.00	
Neighborhood Development (South 13th St)	\$ 60,000.00	
Neighborhood Development (South End)	\$ 20,000.00	
<b>Subtotal - CDBG Obligated Income</b>	<b>\$ 145,000.00</b>	1218 22nd Ave
<b>Total CD Program and Project Income</b>	<b>\$ 2,578,900.00</b>	

\* Program income includes the following activities: grant funds awarded, loan payments and CIP.

6/29/2017

### 2018 Home Investment Partnership Program (HOME) - Council Bluffs

<u>Program</u>	<u>Description</u>	<u>Unit Goals</u>	<u>2018 HOME Budget</u>	<u>Low and Moderate Income Benefit</u>	<u>Other Public Funds</u>	<u>Private Funds</u>	<u>Total Project Costs</u>
Direct Homeownership Assistance	Down payment assistance to first-time low and moderate income homebuyers through the provision of second mortgages to purchase 8 newly constructed single family homes.	0	\$0	\$0	\$0	\$0	\$0
Multi-Family Housing Development Project	Land acquisition, demolition and/or construction related costs for 1 multi-family housing development project.	1	\$190,000	\$190,000	\$0	\$0	\$190,000
		1	\$190,000	\$190,000	\$0	\$0	\$190,000

**RESOLUTION NO. 17-156**

**A RESOLUTION APPROVING THE USE OF 2018 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT PARTNERSHIP (HOME) PROGRAM FUNDS AND DIRECTING THE MAYOR TO SUBMIT THE 2018 ANNUAL PLAN TO THE CITY OF OMAHA AND THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD).**

- WHEREAS, the City of Council Bluffs, an entitlement community, annually receives CDBG funds from HUD; and
- WHEREAS, the City of Council Bluffs also receives HOME funds through the Omaha-Council Bluffs HOME Consortium; and
- WHEREAS, on May 11, 2017, the Community Development Advisory Committee held a public hearing to obtain the views of citizens on housing and community development needs; and
- WHEREAS, the Community Development Department and the Community Development Advisory Committee received requests from the public for CDBG and HOME funding; and
- WHEREAS, the Community Development Advisory Committee held an additional public hearing on June 22, 2017 on said funding requests to ensure that citizens have had an opportunity to present project proposals and comments; and
- WHEREAS, on June 29, 2017, the Community Development Advisory Committee prepared recommendations on said funding requests; and
- WHEREAS, it is the opinion of the City Council that it would be in the best interest of the City to allocate 2018 CDBG funds as outlined in Attachment A and to allocate 2018 HOME funds as outlined in Attachment B.

**NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA**

That the projects listed in Attachment A with the corresponding 2018 CDBG amounts are hereby approved; and the projects listed in Attachment B with the corresponding 2018 HOME amounts are hereby approved.

**BE IT FURTHER RESOLVED**

That the Mayor is hereby directed to cause the preparation of a 2018 Annual Plan which outlines the proposed use of funds as required by the U.S. Department of Housing and Urban Development (HUD) and authorized to execute contracts with HUD for the use of the CDBG funds and with the City of Omaha for the use of the HOME funds.

ADOPTED  
AND  
APPROVED

July 10, 2017

\_\_\_\_\_  
Matthew J. Walsh

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Jodi Quakenbush

\_\_\_\_\_  
City Clerk

## Council Communication

Department: City Clerk

Case/Project No.:

Submitted by:

Liquor License Renewals

Council Action: 7/10/2017

### Description

- 1) Dollar General, 2731 East Kanesville Blvd
- 2) Pilot Travel Center, 2647 South 24th Street
- 3) Queen of Apostles Church, 3304 4th Avenue
- 4) Super Quik Stop, 2800 Twin City Drive

### Background/Discussion

There have been no alcohol related calls of service to any of these locations this licensing period.

### Recommendation

Approval

### ATTACHMENTS:

Description

Liquor Licenses

Type

Other

Upload Date

6/29/2017



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POLICE <u>cm</u>	Local Amt _____	
FIRE <u>AF</u>	Endorsed _____	
HEALTH _____	Issued _____	
BUILDING <u>SR</u>	Expires _____	
ZONING <u>UEB</u>		

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### Applicant BC0030541, Dollar General Store #1574, Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen. The navigation links on the top may also be used to move around the application.

Corporation Name/Sole Proprietor: Dolgencorp, LLC (Sole Proprietorship, Partnership, Corporation, etc.)

Name/Partnership Name(s): Dolgencorp, LLC

Name of Business (D/B/A): Dollar General Store #1574

Address of Premise: 2731 East Kanesville Blvd

Address Line 2: \_\_\_\_\_

City: Council Bluffs

County: Pottawattamie

Zip: 51503

Business Phone: (712) 325-1360

Cell / Home Phone: \_\_\_\_\_

☐ Same Address

Mailing Address: 100 Mission Ridge

Mailing Address Line 2: \_\_\_\_\_

City: Goodlettsville

State: Tennessee

Zip: 37072

Contact Name: Katie Davis

Phone: (615) 855-4000

Email Address: marydavi@dollargeneral.com

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Iowa Alcoholic Beverages Division  
1918 SE Hulsizer Road, Ankeny, IA 50021  
Toll Free 866.IowaABD (866.469.2223)  
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POLICE <u>can</u>	Local Amt _____	
FIRE <u>AF</u>	Endorsed _____	
HEALTH _____	Issued _____	
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## Applicant BC0027517, Pilot Travel Center #329, Council Bluffs

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Corporation Name/Sole Proprietor: Pilot Travel Centers, LLC (Sole Proprietorship, Partnership, Corporation, etc.)

Name/Partnership Name(s): Pilot Travel Centers, LLC

Name of Business (D/B/A): Pilot Travel Center #329

Address of Premise: 2647 S 24th St

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (712) 322-0088

Cell / Home Phone:

☐ Same Address

Mailing Address: Pilot Travel Centers LLC

Mailing Address Line 2: PO Box 10146 Attn: Tax Dept.

City: Knoxville

State: Tennessee

Zip: 37939

Contact Name: Chris Muth

Phone: (865) 588-7488

Email Address: Chris.Muth@pilottravelcenter.com

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## Applicant LC0030794, Queen of Apostles Church, Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen. The navigation links on the top may also be used to move around the application.

Corporation Name/Sole Proprietor Name/Partnership Name(s):	CORPUS CHRISTI CATHOLI (Sole Proprietorship, Partnership, Corporation, etc.)		
Name of Business (D/B/A):	Queen of Apostles Church		
Address of Premise:	3304 4th Ave		
Address Line 2:			
City:	Council Bluffs		
County:	Pottawattamie		
Zip:	51501		
Business Phone:	(712) 323-2916	Cell / Home Phone:	
<input type="checkbox"/> Same Address			
Mailing Address:	3304 4th Ave		
Mailing Address Line 2:			
City:	Council Bluffs	State:	Iowa
Zip:	51501		
Contact Name:	Rev. Joel McNeil		
Phone:	(712) 323-2916	Email Address:	corpuschristi@cox.net

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### Applicant BC0002772, Super Quik Stop, Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen. The navigation links on the top may also be used to move around the application.

Corporation Name/Sole Proprietor: Kate Johnsen (Sole Proprietorship, Partnership, Corporation, etc.)

Name/Partnership Name(s): \_\_\_\_\_

Name of Business (D/B/A): Super Quik Stop

Address of Premise: 2800 Twin City Drive

Address Line 2: \_\_\_\_\_

City: Council Bluffs

County: Pottawattamie

Zip: 51501-0000

Business Phone: (712) 366-2375

Cell / Home Phone: \_\_\_\_\_

☐ Same Address

Mailing Address: 2800 Twin City Drive

Mailing Address Line 2: \_\_\_\_\_

City: Council Bluffs

State: Iowa

Zip: 51501-0000

Contact Name: Julie Templeton

Phone: (712) 366-2375

Email Address: jtemp61@cox.net

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SEE INSTRUCTIONS ON THE REVERSE SIDE

For period (MM/DD/YYYY) 07 / 01 / 2017 through June 30, 2018

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

**Business Information:**

Trade Name/DBA: Kwik Shop #595  
Physical Location Address: 1749 West Broadway City: Council Bluffs ZIP: 51501  
Mailing Address: P.O. Box 305103 City: Nashville State: TN ZIP: 37230  
Business Phone Number: (615) 232-9771

**Legal Ownership Information:**

Type of Ownership: Sole Proprietor ☐ Partnership ☐ Corporation ☒ LLC ☐ LLP ☐  
Name of sole proprietor, partnership, corporation, LLC, or LLP: Kwik Shop, Inc  
Mailing Address: 8942 Blondo City: Omaha State: NE ZIP: 68134  
Phone Number: (402) 391-1808 Fax Number: ( ) Email:

**Retail Information:**

Types of Sales: Over-the-counter ☐ Vending machine ☐  
Types of Products Sold: (Check all that apply)  
Cigarettes ☒ Tobacco ☒ Alternative Nicotine Products ☐ Vapor Products ☒

**Type of Establishment: (Select the option that best describes the establishment)**

Alternative nicotine/vapor store ☐ Bar ☐ Convenience store/gas station ☒ Drug store ☐  
Grocery store ☐ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☐  
Has vending machine that assembles cigarettes ☐ Other ☐

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

**SIGNATURE OF OWNER(S), PARTNER(S), OR CORPORATE OFFICIAL(S)**

Name (please print): Donny Easterling Name (please print): \_\_\_\_\_  
Signature: [Signature] Signature: \_\_\_\_\_  
Date: 6/19/17 Date: \_\_\_\_\_

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

**FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE**

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7.10.17
- Fill in the permit number issued by the city/county: 508873
- Fill in the name of the city or county issuing the permit: Council Bluffs

RENEWAL

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: [iapledge@iowaabd.com](mailto:iapledge@iowaabd.com)
- Fax: 515-281-7375



SEE INSTRUCTIONS ON THE REVERSE SIDE

For period (MM/DD/YYYY) \_\_\_\_/\_\_\_\_/\_\_\_\_ through June 30, \_\_\_\_

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

**Business Information:**

Trade Name/DBA: Super convenient store

Physical Location Address: 2547 9th Ave City: Council Bluffs ZIP: 51501

Mailing Address: 3217 12th Ave City: Council Bluffs State: Iowa ZIP: 51501

Business Phone Number: (402) 612-0716

**Legal Ownership Information:**

Type of Ownership: Sole Proprietor ☐ Partnership ☐ Corporation ☒ LLC ☐ LLP ☐

Name of sole proprietor, partnership, corporation, LLC, or LLP: Delina Real State invest

Mailing Address: 3217 12th Ave City: Council Bluffs State: Iowa ZIP: 51501

Phone Number: (402) 612-0716 Fax Number: ( ) Email: smarkawic@yahoo.com

**Retail Information:**

Types of Sales: Over-the-counter ☐ Vending machine ☐

Types of Products Sold: (Check all that apply)

Cigarettes ☒ Tobacco ☒ Alternative Nicotine Products ☒ Vapor Products ☐

**Type of Establishment: (Select the option that best describes the establishment)**

Alternative nicotine/vapor store ☐ Bar ☐ Convenience store/gas station ☐ Drug store ☐  
Grocery store ☒ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☐

Has vending machine that assembles cigarettes ☐ Other ☐

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

**SIGNATURE OF OWNER(S), PARTNER(S), OR CORPORATE OFFICIAL(S)**

Name (please print): McKhan, G. Kahsay Name (please print): \_\_\_\_\_

Signature: [Signature] Signature: \_\_\_\_\_

Date: 06-26-17 Date: \_\_\_\_\_

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

**FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE**

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7-10-17
- Fill in the permit number issued by the city/county: 509188
- Fill in the name of the city or county issuing the permit: Council Bluffs

RENEWAL

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: [iapledge@iowaabd.com](mailto:iapledge@iowaabd.com)
- Fax: 515-281-7375



SEE INSTRUCTIONS ON THE REVERSE SIDE

For period (MM/DD/YYYY) 7 / 1 / 2017 through June 30, 2018

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

**Business Information:**

Trade Name/DBA: Mega Saver

Physical Location Address: 3540 W Broadway City: Council Bluffs ZIP: 51501

Mailing Address: 202 S 73rd St. City: Omaha State: NE ZIP: 68114

Business Phone Number: (402) 399-5377

**Legal Ownership Information:**

Type of Ownership: Sole Proprietor ☐ Partnership ☐ Corporation ☒ LLC ☐ LLP ☐

Name of sole proprietor, partnership, corporation, LLC, or LLP: TFL Inc.

Mailing Address: 202 S 73rd St. City: Omaha State: NE ZIP: 68114

Phone Number: (402) 399-5377 Fax Number: (402) 393-2998 Email: tu@tflwrp.net

**Retail Information:**

Types of Sales: Over-the-counter ☒ Vending machine ☐

Types of Products Sold: (Check all that apply)

Cigarettes ☒ Tobacco ☒ Alternative Nicotine Products ☐ Vapor Products ☒

**Type of Establishment: (Select the option that best describes the establishment)**

Alternative nicotine/vapor store ☐ Bar ☐ Convenience store/gas station ☒ Drug store ☐  
Grocery store ☐ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☐

Has vending machine that assembles cigarettes ☐ Other ☐

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

**SIGNATURE OF OWNER(S), PARTNER(S), OR CORPORATE OFFICIAL(S)**

Name (please print): KAMOL SAMIEV

Signature: [Signature]

Date: 06/19/2017

Name (please print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

**FOR CITY CLERK/COUNTY AUDITOR ONLY - MUST BE COMPLETE**

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7.10.17
- Fill in the permit number issued by the city/county: 509189
- Fill in the name of the city or county issuing the permit: Council Bluffs

RENEWAL

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: [iapledge@iowaabd.com](mailto:iapledge@iowaabd.com)
- Fax: 515-281-7375





SEE INSTRUCTIONS ON THE REVERSE SIDE

For period (MM/DD/YYYY) 06 / 24 / 17 through June 30, 18

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

**Business Information:**

Trade Name/DBA: THE BLK SQUIRREL  
Physical Location Address: 154 WEST BROADWAY City: COUNCIL BLUFFS ZIP: 51503  
Mailing Address: 154 WEST BROADWAY City: COUNCIL BLUFFS State: IA ZIP: 51503  
Business Phone Number: (712) 256-5427

**Legal Ownership Information:**

Type of Ownership: Sole Proprietor ☒ Partnership ☐ Corporation ☐ LLC ☐ LLP ☐  
Name of sole proprietor, partnership, corporation, LLC, or LLP: THE BLK SQUIRREL  
Mailing Address: 154 WEST BROADWAY City: COUNCIL BLUFFS State: IA ZIP: 51503  
Phone Number: (712) 256-5427 Fax Number: ( ) Email: theblk squirrel@gmail

**Retail Information:**

Types of Sales: Over-the-counter ☐ Vending machine ☐  
Types of Products Sold: (Check all that apply)  
Cigarettes ☒ Tobacco ☒ Alternative Nicotine Products ☐ Vapor Products ☐

**Type of Establishment: (Select the option that best describes the establishment)**

Alternative nicotine/vapor store ☐ Bar ☒ Convenience store/gas station ☐ Drug store ☐  
Grocery store ☐ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☐  
Has vending machine that assembles cigarettes ☐ Other ☐

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

**SIGNATURE OF OWNER(S), PARTNER(S), OR CORPORATE OFFICIAL(S)**

Name (please print): Andrew Jay Mead Name (please print): Nathan Verza  
Signature: [Signature] Signature: [Signature]  
Date: 06-24-17 Date: 06-24-17

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

**FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE**

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7-10-17
- Fill in the permit number issued by the city/county: 509190
- Fill in the name of the city or county issuing the permit: Council Bluffs

RENEWAL

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: [iapledge@iowaabd.com](mailto:iapledge@iowaabd.com)
- Fax: 515-281-7375

**Instructions on the reverse side**

For period (MM/DD/YYYY) 07 / 01 / 2017 through June 30, 2018

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

**Business Information:**

Trade Name/DBA Wal-Mart stores, Inc. / Walmart # 1965  
Physical Location Address 3201 Manawa Centre Dr. City Council Bluffs ZIP 51501-7672  
Mailing Address 508 SW 8th St. Dept. 8916 City Bentonville State AR ZIP 72716-0520  
Business Phone Number (712) 366-1324

**Legal Ownership Information:**

Type of Ownership: Sole Proprietor ☐ Partnership ☐ Corporation ☒ LLC ☐ LLP ☐  
Name of sole proprietor, partnership, corporation, LLC, or LLP Wal-Mart stores, Inc.  
Mailing Address 508 SW 8th St. Dept. 8916 City Bentonville State AR ZIP 72716-0520  
Phone Number (479) 277-0270 Fax Number (479) 204-9864 Email Cynthia.montana@walmart.com

**Retail Information:**

Types of Sales: Over-the-counter ☒ Vending machine ☐

Types of Products Sold: (Check all that apply)

Cigarettes ☒ Tobacco ☒ Alternative Nicotine Products ☒ Vapor Products ☒

**Type of Establishment: (Select the option that best describes the establishment)**

Alternative nicotine/vapor store ☐ Bar ☐ Convenience store/gas station ☐ Drug store ☐  
Grocery store ☐ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☐  
Has vending machine that assembles cigarettes ☐ Other ☒ Retail

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

**Signature of Owner(s), Partner(s), or Corporate Official(s)**

Name (please print) Andrew Lazenby Name (please print) \_\_\_\_\_  
Signature [Signature] Signature \_\_\_\_\_  
Date 6/27/17 Date \_\_\_\_\_

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

**FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE**

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7.10.17
- Fill in the permit number issued by the city/county: 509243
- Fill in the name of the city or county issuing the permit: Council Bluffs
- New ☐ Renewal ☒

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: [iapledge@iowaabd.com](mailto:iapledge@iowaabd.com)
- Fax: 515-281-7375

**Instructions on the reverse side**

For period (MM/DD/YYYY) 07/01/2017 through June 30, 2018

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

**Business Information:**

Trade Name/DBA Wal-Mart stores, Inc. / Walmart # 3150  
Physical Location Address 1800 N. 16th St. City Council Bluffs ZIP 51501-  
Mailing Address 508 SW 8th St. Dept. 8916 City Bentonville State AR ZIP 72716-0520  
Business Phone Number (712) 890-3914

**Legal Ownership Information:**

Type of Ownership: Sole Proprietor ☐ Partnership ☐ Corporation ☒ LLC ☐ LLP ☐  
Name of sole proprietor, partnership, corporation, LLC, or LLP Wal-Mart stores, Inc.  
Mailing Address 508 SW 8th St. Dept. 8916 City Bentonville State AR ZIP 72716-0520  
Phone Number (479) 277-0270 Fax Number (479) 204-9864 Email Cynthia.montena@walmart.com

**Retail Information:**

Types of Sales: Over-the-counter ☒ Vending machine ☐  
Types of Products Sold: (Check all that apply)  
Cigarettes ☒ Tobacco ☒ Alternative Nicotine Products ☒ Vapor Products ☒

**Type of Establishment: (Select the option that best describes the establishment)**

Alternative nicotine/vapor store ☐ Bar ☐ Convenience store/gas station ☐ Drug store ☐  
Grocery store ☐ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☐  
Has vending machine that assembles cigarettes ☐ Other ☒ Retail

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

**Signature of Owner(s), Partner(s), or Corporate Official(s)**

Name (please print) Andrea Lazenby Name (please print) \_\_\_\_\_  
Signature [Signature] Signature \_\_\_\_\_  
Date 6/27/17 Date \_\_\_\_\_

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

**FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE**

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7.10.17
- Fill in the permit number issued by the city/county: 509244
- Fill in the name of the city or county issuing the permit: Council Bluffs
- New ☐ Renewal ☒

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: [iapledge@iowaabd.com](mailto:iapledge@iowaabd.com)
- Fax: 515-281-7375

**Instructions on the reverse side**

For period (MM/DD/YYYY) 07 / 01 / 2017 through June 30, 2018

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

**Business Information:**

Trade Name/DBA Sam's West, Inc. / Sam's Club # 6472  
Physical Location Address 3221 Manawa Sentre Dr. City Council Bluffs ZIP 51501  
Mailing Address 508 SW 8th St. Dept. 8914 City Bentonnile State AR ZIP 72716-0520  
Business Phone Number (712) 366-0130

**Legal Ownership Information:**

Type of Ownership: Sole Proprietor ☐ Partnership ☐ Corporation ☒ LLC ☐ LLP ☐

Name of sole proprietor, partnership, corporation, LLC, or LLP Sam's West, Inc.

Mailing Address 508 SW 8th St. Dept. 8914 City Bentonnile State AR ZIP 72716-0520

Phone Number (479) 277-0270 Fax Number (479) 201-9864 Email cynthia.montero@walmart.com

**Retail Information:**

Types of Sales: Over-the-counter ☒ Vending machine ☐

Types of Products Sold: (Check all that apply)

Cigarettes ☒ Tobacco ☒ Alternative Nicotine Products ☒ Vapor Products ☒

**Type of Establishment: (Select the option that best describes the establishment)**

Alternative nicotine/vapor store ☐ Bar ☐ Convenience store/gas station ☐ Drug store ☐  
Grocery store ☐ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☐

Has vending machine that assembles cigarettes ☐ Other ☒ Retail

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

**Signature of Owner(s), Partner(s), or Corporate Official(s)**

Name (please print) Andrew Lizenby Name (please print) \_\_\_\_\_

Signature [Signature] Signature \_\_\_\_\_

Date 10/27/17 Date \_\_\_\_\_

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

**FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE**

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7.10.17
- Fill in the permit number issued by the city/county: 509245
- Fill in the name of the city or county issuing the permit: Council Bluffs
- New ☐ Renewal ☒

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

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